United States Court of Appeals
for the Second Circuit

APPELLEE'S APPENDIX

77-7088

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P/S

United States Court of Appeals
FOR THE SECOND CIRCUIT
Docket No. 77-7088

RICHARD J. STULL,
Plaintiff-Appellant,

v.

NICHOLAS H. BAYARD, PAUL L. MILLER, HOWARD PIPER, THOMAS F. PIPER and WILLIAM T. PIPER, JR., individually and as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, Deceased, NICOLAS M. SALGO, DAVID W. WALLACE, BANGOR PUNTA CORPORATION and THE FIRST BOSTON CORPORATION,
Defendants-Appellees.

APPEAL FROM ORDER OF UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

COMPLETE APPENDIX SUBMITTED BY DEFENDANTS-APPELLEES

UNITED STATES COURT OF APPEALS
FILED
MAY 16 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

ROGERS & WELLS
Attorneys for Defendant-Appellee
Bangor Punta Corporation
200 Park Avenue
New York, New York 10017

CHADBOURNE, PARKE, WHITESIDE & WOLFF
Attorneys for Defendants-Appellees,
Howard Piper, Thomas F. Piper and
William T. Piper, Jr.
30 Rockefeller Plaza
New York, New York 10020

SULLIVAN & CROMWELL
Attorneys for Defendant-Appellee
The First Boston Corporation
48 Wall Street
New York, New York 10005

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Docket Entries

Date	*Proceedings*
Aug. 1-75	Filed complaint and issued summons
Aug. 18-75	Filed summons and return-served the following: The First Boston Corp. by R. Kohlbrecher on 08-05-75 Howard Piper — UNEXECUTED — 08-11-75 Thomas F. Piper — UNEXECUTED — 08-11-75 William T. Piper, Jr. on 08-11-75 Piper Aircraft Corp. by John R. Leeson on 08-11-75 Bangor Punta Corp. by John Martin on 08-08-75
Aug. 27-75	Mailed notice of reassignment to Judge Wyatt
Sep. 8-75	Filed Stip. & Order that the time for defts, The First Boston Corp., Bangor Punta Corp., William T. Piper, Jr. & Piper Aircraft Corp. to answer is extended to 9-15-75, Motley, J.
Sep. 12-75	Filed pltff's affidavit & notice of motion for an order determining that this action to be a class action & granting partial summary judgment other than Piper Aircraft Corp., ret. Sep. 26, 1975
Sep. 12-75	Filed pltff's memorandum of law in support of his motion
Sep. 16-75	Filed Stip & Order that the time for defendants The First Boston Corp., Bangor

Docket Entries

Date	*Proceedings*
	Punta Corp., William T. Piper Jr. & Piper Aircraft Corp. to answer to complaint is extended to 9-30-75, Pollack, J.
Sep. 26-75	Filed Memo. End. on Document #4. The within motion is denied without prejudice to its renewal after completion of discovery. Wyatt, J. (mailed notice)
Sep. 26-75	Filed Memo End. on Unsigned Stipulation. This Stip is disapproved. The motion is denied without prejudice to the renewal after completion of discovery. Wyatt, J. (mailed notice)
Oct. 1-75	Filed (ANSWER) (Piper Aircraft Corp.)
Oct. 1-75	Filed ANSWER (The First Boston Corp.)
	Filed ANSWER (William T. Piper Jr.)
Oct. 14-75	Filed Deft. William T. Piper Notice of Deposition of pltff. on 10-17-75
Oct. 14-75	Filed AMENDED ANSWER (Piper Aircraft Corp.)
Oct. 31-75	Filed Pltffs. First Set of Interrogs. addressed to defts. First Boston Corp., & Bangor Punta Corp.
Oct. 31-75	Filed Pltffs. First Set of Interrogs. to deft. William T. Piper, Jr.
Oct. 31-75	Filed Pltffs. First Set of Interrogs. to deft. Piper Aircraft Corp.
Nov. 26-75	Filed Deft. Bangor Punta's Objections to pltffs. 1st Set of Interrogs.
Dec. 1-75	Filed Deft. Piper Aircraft Corp.'s Objections to pltffs. 1st Set of Interrogs.

Docket Entries

Date	*Proceedings*
Dec. 5-75	Filed Objections of Deft. William T. Piper, Jr. to Pltffs. 1st set of Interrogs.
Dec. 9-75	Filed Additional summons with Marshal's return. SERVED HOWARD PIPER 12-3-75
Dec. 18-75	Filed pltffs. Affidavit & Notice of Motion for an order to answer pltffs' First Set of Interrogs., etc., rtble before Wyatt, J. on 1-9-76
Dec. 22-75	Filed ANSWER of deft. Thomas F. Piper to the complaint
Jan. 5-76	Filed summons with marshal's return SERVED: THOMAS F. PIPER on 12-4-75
Jan. 22-76	Filed Affidavit of deft. Piper Aircraft Corp. in opposition to pltffs. motion, etc. as indicated
Jan. 22-76	Filed Affidavit of defts. Bangor Punta Corp. David W. Wallace and Nicholas M. Salgo in opposition to pltffs' motion etc. as indicated
Jan. 22-76	Filed memorandum of deft. Piper in opposition to motion to compel answers to pltffs. interrogatories
Feb. 13-76	Filed stip and order that the time of deft. The First Boston Corp. to respond, etc. is extended to the 20th day following the ruling of Mag. Schreiber, etc. as indicated
Feb. 13-76	Filed ANSWER of deft. H. Piper to the complaint

Docket Entries

Date	*Proceedings*
Mar. 9-76	Filed Pltffs. First Request for production and inspection of documents
Mar. 9-76	Filed Request by Defts. named that Pltff. produce documents, as indicated
Mar. 9-76	Filed request of deft. The First Boston Corp. to inspect pltffs. documents listed on Schedule A attached
Mar. 15-76	Filed Stip. Order & Judgment dismissing the complaint as to Deft. (Piper Aircraft Corporation) with prejudice . . . Wyatt, J. Judgment entered 3-16-76 . . . Clerk
Mar. 15-76	Filed Deft's. (Piper Aircraft) affidavit in support of Stip. of dismissal
Mar. 22-76	Filed pltffs. response to defts. Bangor Punta Corp. Nicholas M. Salgo and David W. Wallace's request for production of documents etc. as indicated
Mar. 24-76	Filed Notice of Entry by deft. Piper Aircraft Corp. as indicated
Mar. 25-76	Filed response of defts. named to pltffs. first request for production of documents
Apr. 30-76	Filed Affidavit of deft. William T. Piper, et al. in opposition to pltffs. motion etc., as indicated
May 26-76	PRE-TRIAL CONFERENCE HELD BY Schreiber
Aug. 24-76	Filed pltffs. Affidavit & Notice of Motion for an order determining this action to be a class action, etc. as indicated rtble on 9-27-76

Docket Entries

Date	*Proceedings*
Aug. 24-76	Filed pltffs. memorandum of law in support of said motion
Sep. 17-76	Filed Stip & order that the time of defts. to file a response to pltffs. motion for class action certification etc. is adjourned to 10-29-76 etc. as indicated, Wyatt, Jr.
Nov. 8-76	Filed Stip & Order that the time of defts. to file a response to pltffs. motion for class action, etc., is extended to 11-30-76 and the return date on pltffs. motions is extended to 12-17-76, Wyatt, Jr.
Nov. 30-76	Filed Affdvt. & Notice of Motion by defts. named that this Court enter a summary judgment in favor of defts. in dismissing the action ect. rtble on 11-30-76
Nov. 30-76	Filed defts. memorandum of law in support of said motion as indicated
Nov. 30-76	Filed Affidavit & Notice of Cross-Motion by defts. named for summary judgment against pltff. etc. rtble on 12-17-76
Nov. 30-76	Filed memorandum of defts. named in support of said motion as indicated
Dec. 1-76	Filed Notice of Motion by deft. First Boston Corp. for an order striking the pltffs. complaint, etc. as indicated rtble on 12-17-76
Dec. 1-76	Filed First Boston's Brief in support of its cross motion etc. as indicated
Dec. 2-76	Filed Rule 9G Statement of the First Boston Corporation as indicated
Jan. 10-77	Filed opinion #45507 . . . this is a motion by pltff. or an order determining that this

Date	*Proceedings*
	action be maintained as a class action and granting partial summary judgment in favor of pltff. etc. There are three cross-motions . . . for summary judgment in favor of defts. Because I find that the action is barred by the statute of limitations the other grounds asserted by movants are not reached . . . The several cross-motions by defts. are granted. The motion by pltff is denied as moot. Settle order. Wyatt, J. m/n
Jan. 10-77	Filed pltffs memo in opposition to defts. motion on the issue of statute of limitations
Jan. 10-77	Filed opposing affidavit of R. Stull
Jan. 19-77	Filed order and judgment . . . that defts cross-motions for summary judgment are granted, that pltffs' motion for certification as a class action is denied as moot . . . that pltffs' complaint be dismissed on the merits with prejudice and defts recover their costs. Wyatt J. Judgment ent. Clerk 1-20-77 (on docket 1-21-77) mn
Feb. 16-17	Filed Appeals bond in the sum of $250.00 Hartford Accident & Indemnity Co.
Feb. 16-17	Filed pltffs. notice of appeal to 2nd Circuit from the judgment and ordered entered on 1/9/77. Mailed copies.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, PAUL L. MILLER,
HOWARD PIPER, THOMAS F. PIPER and
WILLIAM T. PIPER, JR., individually
and as EXECUTORS OF THE ESTATE OF
WILLIAM T. PIPER, deceased,
NICOLAS M. SALGO, DAVID W. WALLACE,
BANGOR PUNTA CORPORATION, THE
FIRST BOSTON CORPORATION, and
PIPER AIRCRAFT CORPORATION,

Defendants.

--------------------------------------x

COMPLAINT

CLASS ACTION

PLAINTIFF DEMANDS A
TRIAL BY JURY

Plaintiff, complaining of the defendants, by DEMOV, MORRIS, LEVIN & SHEIN, his attorneys, alleges:

JURISDICTION

1. The jurisdiction of this Court is founded upon Section 27 of the Securities Exchange Act of 1934 (the

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"Exchange Act") (15 USC 78aa), and the principles of pendent jurisdiction. This action is brought to enforce defendants' liability, created by Section 14(d)(1), et seq. and (e) of the Exchange Act (15 USC 78n (5)(1), et seq. and (e)) and the Rules of the Securities & Exchange Commission ("SEC") applicable thereto. The acts and practices complained of occurred in part in the Southern District of New York.

2. This action is not a collusive one to confer upon a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.

CLASS ACTION ALLEGATIONS

3. Pursuant to Rule 11A of the Civil Rules of this Court and Rule 23 of the Federal Rules of Civil Procedure, plaintiff alleges:

(a) This action is properly maintainable as a class action within Rule 23(a), and (b) subdivision (1) (A) and (B) and (3) of the Federal Rules of Civil Procedure.

(b) (i) The number of members of the class is not presently known, but it is believed that the number exceeds

300 members.

(ii) The class comprises the public shareholders of Piper Aircraft Corporation ("Piper") who owned or held the shares of Piper on or about and prior to August 4, 1969 and were induced, dissuaded or deprived by or as a result of fraudulent, deceptive or manipulative acts or practices of the defendants of and from accepting a tender and exchange offer made by Chris-Craft Industries, Inc. ("CCI"), on or about May 19, 1969, of a package of CCI's securities, plus $10 in cash, as amended, for each Piper share tendered.

(iii) The basis upon which it is claimed that plaintiff will fairly and adequately protect the interests of the class is that plaintiff was induced not to accept and dissuaded from accepting CCI's tender and exchange offer prior to the date of its expiration, by the acts and practices complained of and he was thereby deprived of the same; that he has no interests adverse to the class; that he is not associated in any way, shape or form with any of the defendants; that his attorneys are experienced in this type of litigation and will diligently prosecute this action on behalf of plaintiff and the class he represents; and plaintiff's attorneys have no interests adverse to the claims of Piper shareholder

(iv) The following questions of law and fact are common to the class:

(1) Whether defendants in their efforts to defeat CCI's tender and exchange offers to Piper stockholders for their Piper shares and to deprive, induce, dissuade or prevent the plaintiff and other stockholders of Piper similarly situated of and from accepting the same, made false, deceptive or misleading statements or material omissions in a registration statement, prospectus, public press releases, letters to Piper stockholders, or other writings publicly filed or disseminated in the mails and other instrumentalities of interstate commerce, among other things alleging that CCI's tender and exchange offers were inadequate, and engaged in other illegal acts and practices for that purpose.

(2) Whether such acts and practices constituted violations of the Exchange Act and the Rules and Regulations applicable thereto.

(3) Whether plaintiff and other stockholders of Piper, similarly situated were damaged as a result of the wrongful acts and material omissions of the defendants complained of.

(v) Prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class and establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other Piper stockholders not parties to such adjudication. There is no interest in members of the class in individually controlling the prosecution of separate actions known to plaintiff and more than five years have elapsed since defendants' violations of the Exchange Act complained of. No other litigation concerning the controversy has been commenced by or against members of the class, except that a prior private suit by CCI against the defendants, or some of them, resulted in a final judgment in favor of CCI; and another action concerning the controversy was commenced by Lillian Stull against the defendants, or some of them, has been settled as a private action, as plaintiff is informed. It is claimed that the questions of law and fact common to the members of the class predominate over any questions affecting only individual members and that class rel is superior to other forms of relief. Plaintiff knows of no difficulties likely to be encountered in the management of the action as a class action.

CAUSE OF ACTION

4. Plaintiff is and prior to August 4, 1969 was a stockholder of Piper, owning and holding 75 of its shares, 50 shares of which he purchased on the New York Stock Exchange ("NYSE") and 25 shares of which he received as a stock dividend.

5. Piper is a Pennsylvania corporation. On or

about and prior to August 4, 1969, Piper was one of the nation's leading manufacturers of light aircraft. Its 1,644,890 shares of issued and outstanding stock were traded on the NYSE. The individual Piper defendants and William T. Piper, deceased (referred to herein as the "Piper family") were Chief Executive Officers and Directors and in control of Piper and they owned or controlled about 325,000 Piper shares.

6. Upon information and belief, that William T. Piper died subsequent to the acts and practices of the defendants complained of and that Howard Piper, Thomas F. Piper and William T. Piper, Jr. are the Executors of said decedent's estate.

7. Bangor Punta Corporation ("PBC") is and on or about and prior to August 4, 1969 was a Delaware corporation. It is and was a conglomerate with holdings in diversified fields. Its securities are and were traded on the NYSE. Defendants Nicolas M. Salgo and David W. Wallace are and were principal officers and directors of BPC.

8. The First Boston Corporation ("First Boston") is and at or about and prior to August 4, 1969 was a Massachusetts corporation. It is and was an investment bankin firm and also a registered broker-dealer. In connection with the events involved herein it served as investment advisor to Piper and as Underwriter for for BPC. Defendant Paul L. Miller is and was President of First Boston and Nicholas H. Bayard is and was Vice-President in charge of its Underwriting Department.

9. Prior to August 4, 1969, CCI, a Delaware corporation, whose securities were traded on the NYSE sought to acquire Piper shares in order to control Piper and thereupon, or thereafter, to merge Piper and CCI.

10. On or about and between January 23, 1969 and August 4, 1969, in furtherance of its program alleged in paragrap 9 above, CCI made tender and exchange offers to the plaintiff and other Piper stockholders similarly situated, the last of which expired on August 4, 1969.

11. In and by its last said tender and exchange offer to Piper stockholders, CCI announced a specific package of CCI securities to be exchanged for Piper shares. First Boston estimated that the package was worth $70-74 per Piper share, exclusive of $10 in cash additionally offered by CCI to Piper stockholder. First Boston's estimate was given to all of the defendants.

12. In search of an effective means to defeat CCI, the defendants, acting in concert prior to August 4, 1969, made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances u-der which they were made, not misleading, or engaged in fraudulent, deceptive or manipulative acts or practices in connection with CCI's tender offers or invitations for tenders, soliciting the plaintiff and other Piper stockholders similarly situated in opposition to CCI's several offers and in support of BPC's exchange offers, as hereinafter alleged.

13. On or about and subsequent to January 26, 1969, by telegram and letters, the Piper family in the name of Piper wrongfully urged the plaintiff and other Piper stockholder similarly situated not to tender their Piper shares to CCI and they stated, inter alia, that CCI's offers were "inadequat and "not in the best interests" of Piper stockholders, and tha "NOT ONE OF YOUR BOARD OF DIRECTORS OR MANAGEMENT WILL TENDER HIS SHARES," to CCI, which said defendants emphasized to induce Piper stockholders to follow the alleged lead of Piper's "BOARD OF DIRECTORS AND MANAGEMENT," but they omitted to disclose to the plaintiff and other Piper stockholders similarly situated that First Boston had rendered an opinion to Piper stating that CCI's original tender offer of $65 in cash for each Piper share tendered was fair and equitable, and, as hereinbefore in paragraph 11 hereof stated, CCI's final tender offer of a package of CCI's securities to be exchanged for each Piper share tendered was estimated by First Boston to be worth $70-74 per Piper share; and they omitted to disclose that not all members of Piper's Board

of Directors and Management held Piper shares, as a result of which the above emphasized statement was also calculated to mislead Piper stockholders into believing that they did.

14. In or about and subsequent to May, 1969, by press release calculated to deceive the plaintiff and other Piper stockholders similarly situated and to deprive them of and dissuade them from accepting CCI's tender or exchange offers and to induce them not to do so, the defendants wrongfully announced an offer to exchange Piper shares for a package of securities of BPC, valued by First Boston at not less than $80 for each Piper share, but such value was untrue as the defendants well knew or are chargeable with knowledge, for reasons hereinafter set forth, among others, which the defendants omitted to disclose.

15. The said announcement of BPC's exchange offer was furthermore illegally made and disseminated to the plaintiff and other Piper shareholders similarly situated, in that no registration statement covering said offer had been filed with the SEC or was, in effect, as required by law.

16. Thereafter, and following an injunction action instituted by the SEC against Piper and BPC, for Securities Act violation, a registration statement of the package of securities offered by BPC to be exchanged for Piper shares was filed by the defendants as required by law, in which First Boston acted as Underwriter. Such registration wrongfully furthered the plan, scheme and conspiracy of the defendants to deprive the plaintiff and other Piper stockholders similarly situated from accepting CCI's tender or exchange offers and to induce them not to do so, in that, among other things, the package of securities offered for each Piper share was alleged therein to be worth $80 per Piper share, as evaluated by First Boston, but the defendants omitted to disclose that BPC's assets and financials omitted to reflect the terms of outstanding institutional loans and included therein its holdings in the Bangor and Aroostock Railroad ("BAR") at a figure which it carried on its books in the amount of $18.4 million, although it had pending and deferred a transaction for the sale of its holdings in BAR for about $5 million, which it consummated shortly

thereafter, as a result of which the profits which BPC had publicly reported, and upon which said evaluation of its package offered to Piper stockholders was materially based, were, in fact, wiped out and therefore were, in fact, non-existent, all of which the defendants continued to conceal from the plaintiff and the other Piper stockholders similarly situated during the period when CCI's exchange offer was yet in effect and had not yet expired, and the Piper family, purporting to act for Piper, for their own self and conflicting interests, which they omitted to disclose, wrongfully recommended the BPC package of securities over the CCI package of securities, which were, in fact, of greater value than BPC's package of securities, and shareholders were deceived thereby.

17. In addition, and following the aforesaid registration by BPC, the defendants, acting together and in concert, wrongfully and unlawfully negotiated and acquired for BPC certain blocks of Piper shares, through private sale, during the pendency of BPC's exchange offer for Piper shares and before the same had expired, all purported to deprive the

Piper public stockholders, other than such sellers, of and from CCI's offers, which did not expire until August 4, 1969, when CCI gave up the race and competition for Piper shares.

18. Plaintiff and Piper stockholders similarly situated were thereby deceived and deprived of and from CCI's tender and exchange offers, or induced and dissuaded from selling their Piper shares to CCI.

19. As a result of the misconduct of the defendants, trading in Piper shares on the NYSE was suspended by the SEC and as a direct or indirect result thereof Piper was eventually delisted from theNYSE, to the loss and damage of the plaintiff and other Piper shareholders similarly situated.

20. Plaintiff and other members of the class had no knowledge of the wrongful and illegal acts of the defendant hereinabove mentioned, and could not have discovered them by the exercise of reasonable diligence at or prior to the expiration of CCI's tender and exchange offers aforementioned.

21. BPC and First Boston well knew or should have known of the misconducts of the defendants which occurred prior to May, 1969, when they joined in the scheme and plan complained of and participated in or aided and abetted the wrongful acts complained of and are chargeable therewith.

22. Plaintiff and other members of the class he represents relied upon the registration and proxy statements, recommendations, prospectus reports and writings of the defendants, and upon their material omissions, and did not accept CCI's tender and exchange offers, and hold their Piper shares, or have since sold their Piper shares at less than the tender offers of CCI.

23. Plaintiff's claims herein are based, in part, upon the determinations of the United States Court of Appeals for the Second Circuit in the action brought by _CCI_ v. _Piper, et al._, and _CCI_ v. _BPC_, reported in 480 F.2d 341.

WHEREFORE, plaintiff demands judgment

(1) that defendants be jointly or severally

directed to account and pay to the plaintiff and other Piper stockholders similarly situated their damages, as a result of the wrongful acts and material omissions of the defendants or in which they participated in or aided and abetted.

(2) That the Court determine that this action be maintained as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure and that the class be determined to constitute those stockholders who were wrongfully deprived of CCI's tender and exchange offers, and assessing the damages of the plaintiff and those of other members of the class resulting therefrom.

(3) That the Court grant plaintiff such other, further or different relief as to the Court seems just.

(4) That the Court award plaintiff reasonable attorneys and accountants fees and expenses and the cost and disbursements of this action.

Dated: New York, New York

Answer of Defendant Bangor Punta Corporation

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - x

RICHARD J. STULL, :

Plaintiff, : ANSWER

-against- : 75 Civ. 3782 (I.B.W.)

NICHOLAS H. BAYARD, et al., :

Defendants. :

- - - - - - - - - - - - - - - - - - x

Defendant BANGOR PUNTA CORPORATION ("BPC"), by its attorneys, Webster Sheffield Fleischmann Hitchcock & Brookfield, answers the Complaint herein as follows:

1. Denies each and every allegation contained in paragraph 1 except admits that plaintiff purports to bring this action under the statutes and sections set forth therein.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 2, 4, 6 and 23.

3. Denies each and every allegation contained in paragraph 3 except admits that plaintiff purports to bring this action as a class action under the Rules set forth therein.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 except admits that on or about and prior to August 4, 1969 Piper was a Pennsylvania corporation and engaged in, among other things, the manufacture of light aircraft, that it had approximately 1,644,790 shares of stock issued and outstanding which were traded

on the New York Stock Exchange, and that at certain times William T. Piper, William T. Piper, Jr., Howard Piper and Thomas F. Piper were officers and directors of Piper and owned stock of Piper.

5. Denies each and every allegation contained in paragraphs 12, 15, 17, 18, 19, 20, 21 and 22.

6. Denies each and every allegation contained in paragraph 7 except admits that BPC is and was a Delaware corporation with holdings in diversified fields, that its securities are and were traded on the New York Stock Exchange, that defendant Nicholas M. Salgo was an officer and director of BPC, and that defendant David W. Wallace is and was an officer and director of BPC.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 except admits that First Boston is a Massachusetts corporation, which is and was an investment banking firm and registered broker-dealer, that Paul L. Miller was its President, and that First Boston was the dealer-manager of BPC's exchange offer to the Piper shareholders dated July 18, 1969.

8. Denies each and every allegation contained in paragraph 10 except admits that CCI made a tender offer and exchange offers to all Piper stockholders and that CCI's last exchange offer expired on August 4, 1969.

9. Denies on information and belief the allegations contained in paragraph 11 except admits that CCI announced a

specific package of CCI securities to be exchanged for Piper shares in its last exchange offer to Piper shareholders.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 except admits that defendant William T. Piper, Jr. sent communications to Piper shareholders on January 27 and 28, 1969, to which the Court is respectfully referred for the complete terms thereof, and denies on information and belief that First Boston estimated CCI's final tender offer to be worth $70 - $74 per Piper share exclusive of cash.

11. Denies each and every allegation contained in paragraph 14 except admits that BPC and Piper issued identical press releases on May 8, 1969, to which the Court is respectfully referred for the complete terms thereof.

12. Denies each and every allegation contained in paragraph 16 except admits that BPC filed a Registration Statement for an exchange offer to the Piper shareholders, with respect to which First Boston acted as dealer-manager, which became effective July 18, 1969, and that the financial statements included in such Registration Statement listed the carrying figure of BPC's BAR holdings as approximately $18.4 million and that BPC sold its BAR holdings on October 2, 1969 for approximately $5 million.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

13. Plaintiff has failed to state a claim against BPC upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

14. Plaintiff's claims are barred by the applicable Statute of Limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

15. Plaintiff does not have standing to assert the allegations contained in the complaint against BPC.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

16. Plaintiff's action is barred by laches.

WHEREFORE, defendant BPC demands judgment dismissing the Complaint as against it, together with the costs and disbursements of this action.

Dated: New York, New York
September 30, 1975

WEBSTER SHEFFIELD FLEISCHMANN
HITCHCOCK & BROOKFIELD

By ______________________
A Member of the Firm,
Attorneys for Defendant Bangor
Punta Corporation
One Rockefeller Plaza
New York, New York 10020
(212) 582-3370

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. STULL, :

Plaintiff, :

-against- :

NICHOLAS H. BAYARD, PAUL L. MILLER, :
HOWARD PIPER, THOMAS F. PIPER and
WILLIAM T. PIPER, JR., individually :
and as EXECUTORS OF THE ESTATE OF
WILLIAM T. PIPER, deceased, :
NICOLAS M. SALGO, DAVID W. WALLACE,
BANGOR PUNTA CORPORATION, THE :
FIRST BOSTON CORPORATION, and
PIPER AIRCRAFT CORPORATION, :

Defendants. :

- x

ANSWER

75 Civ. 3782

(IBW)

Defendant William T. Piper, Jr., by his attorneys, Chadbourne, Parke, Whiteside & Wolff, answers the complaint herein as follows:

1. Denies each and every allegation contained in paragraph 1 of the complaint, except admits that plaintiff purports to bring this action under the statutes and sections set forth therein.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. Denies each and every allegation contained in paragraph 3 of the complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the complaint, except admits that upon information and belief as of June 1973 plaintiff was the owner of 75 shares

of Piper Aircraft Corporation ("Piper") stock of which 25 shares were issued as a stock dividend.

5. Denies each and every allegation contained in paragraph 5 of the complaint, except admits that on or about and prior to August 4, 1969 Piper was a Pennsylvania corporation and engaged in, among other things, the manufacture of light aircraft, it had approximately 1,641,890 shares of stock issued and outstanding which were traded on the New York Stock Exchange, and at certain times William T. Piper, William T. Piper, Jr., Howard Piper and Thomas F. Piper were officers and directors of Piper and owned stock of Piper.

6. Denies each and every allegation contained in paragraph 6 of the complaint, except admits that William T. Piper died on or about January 15, 1970 and that Thomas F. Piper, William T. Piper, Jr. and Howard Piper are the Executors of his Estate.

7. Neither admits nor denies the allegations contained in paragraph 7 of the complaint since they do not relate to said defendant.

8. Neither admits nor denies the allegations contained in paragraph 8 of the complaint since they do not relate to said defendant, except admits that prior to August 4, 1969 The First Boston Corporation served as investment advisor for Piper in connection with certain matters.

9. Denies each and every allegation contained in paragraph 9 of the complaint, except admits that

Chris-Craft Industries, Inc. ("CCI") is a Delaware corporation whose securities were traded on the NYSE prior to August 4, 1969, and that after May 1969 CCI sought to acquire control of Piper and to merge or consolidate Piper with CCI in a manner favorable to CCI.

10. Denies each and every allegation contained in paragraph 10 of the complaint, except admits that on or about and between January 23, 1969 and August 4, 1969 CCI made tender and exchange offers for Piper stock and refers to said offers for their contents.

11. Denies each and every allegation contained in paragraph 11 of the complaint, except admits that CCI announced a specific package to be exchanged for Piper stock in its last offer.

12. Denies each and every allegation contained in paragraph 12 of the complaint.

13. Denies each and every allegation contained in paragraph 13 of the complaint.

14. Denies each and every allegation contained in paragraph 14 of the complaint.

15. Denies each and every allegation contained in paragraph 15 of the complaint.

16. Denies each and every allegation contained in paragraph 16 of the complaint.

17. Denies each and every allegation contained in paragraph 17 of the complaint.

18. Denies each and every allegation contained in paragraph 18 of the complaint.

19. Denies each and every allegation contained in paragraph 19 of the complaint.

20. Denies each and every allegation contained in paragraph 20 of the complaint.

21. Denies each and every allegation contained in paragraph 21 of the complaint.

22. Denies each and every allegation contained in paragraph 22 of the complaint.

23. Denies knowledge or information sufficient to form a belief as to what plaintiff partially bases his claims upon, except denies that the cases reported at 480 F.2d 341 have any applicability to this action.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

24. Plaintiff has failed to state a claim or claims against defendant upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

25. Plaintiff does not have standing to assert the allegations contained in the complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

26. The allegations in the complaint are barred by the Statute of Limitations in that the alleged right

of action set forth in the complaint did not accrue within the period set forth in the applicable Statute of Limitations before the commencement of this action.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

27. The allegations in the complaint are barred by laches. Plaintiff had notice of all the alleged facts and of all the alleged acts of the defendant set forth in the complaint and nevertheless refrained from filing a summons and complaint in this action until August 1, 1975, and has thereby been guilty of such laches as should in equity bar the plaintiff from maintaining this action in that more than six years have elapsed since any acts or other conduct on which plaintiff purports to base his complaint.

AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE

28. This Court lacks jurisdiction over the person of said defendant.

AS AND FOR A SIXTH
AFFIRMATIVE DEFENSE

29. Plaintiff is estopped by equity from prosecuting this claim. Plaintiff was the attorney of record in a suit brought by his wife, Lillian Stull, and commenced on or about February 4, 1969, as well as a subsequent suit by said Lillian Stull commenced in 1972, both of which were based on the matters which form the basis for the suit at bar and are still pending. The bringing of such actions and the matters alleged therein equitably

estop this plaintiff from proceeding with this suit on his own behalf at this time.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

30. If it is held that plaintiff has alleged a proper class action, plaintiff cannot represent such class because he is not a member thereof, is not a proper representative and has a conflict of interest.

WHEREFORE, defendant William T. Piper, Jr. demands judgment dismissing the complaint against him together with costs and disbursements of this action.

CHADBOURNE, PARKE, WHITESIDE & WOLFF

By__________________________________
A Member of the Firm
Attorneys for William T. Piper, Jr.
30 Rockefeller Plaza
New York, New York 10020
(212) 541-5800

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. STULL, :

Plaintiff, :

- against - : **ANSWER**

NICHOLAS H. BAYARD, PAUL L. MILLER, HOWARD PIPER, THOMAS F. PIPER and WILLIAM T. PIPER, JR., individually and as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, deceased, NICOLAS M. SALGO, DAVID W. WALLACE, BANGOR PUNTA CORPORATION, THE FIRST BOSTON CORPORATION, and PIPER AIRCRAFT CORPORATION, : 75 Civ. 3782 (IBW)

Defendants :

- x

Defendant Thomas F. Piper, by his attorneys, Chadbourne, Parke, Whiteside & Wolff, answers the complaint herein as follows:

1. Denies each and every allegation contained in paragraph 1 of the complaint, except admits that plaintiff purports to bring this action under the statutes and sections set forth therein.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. Denies each and every allegation contained in paragraph 3 of the complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the complaint, except admits that upon information and belief as of June 1973 plaintiff was the owner of 75 shares of Piper Aircraft Corporation ("Piper") stock of which 25 shares were issued as a stock dividend.

5. Denied each and every allegation contained in paragraph 5 of the complaint, except admits that on or about and prior to August 4, 1969 Piper was a Pennsylvania corporation and engaged in, among other things, the manufacture of light aircraft, it had approximately 1,641,890 shares of stock issued and outstanding which were traded on the New York Stock Exchange, and at certain times William T. Piper, William T. Piper, jr., Howard Piper and Thomas F. Piper were officers and directors of Piper and owned stock of Piper.

6. Denies each and every allegation contained in paragraph 6 of the complaint, except admits that William T. Piper died on or about January 15, 1970 and that Thomas F. Piper, William T. Piper, Jr. and Howard Piper are the Executors of his Estate.

7. Neither admits nor denies the allegations contained in paragraph 7 of the complaint since they do not relate to said defendant.

7. Neither admits nor denies the allegations contained in paragraph 8 of the complaint since they do not relate to said defendant, except admits that prior to August 4, 1969 The First Boston Corporation served as investment advisor for Piper in connection with certain matters.

9. Denies each and every allegation contained in paragraph 9 of the complaint, except admits that Chris-Craft Industries, Inc. ("CCI") is a Delaware corporation whose securities were traded on the NYSE prior to August 4, 1969 and that after May 1969 CCI sought to acquire control of Piper and to merge or consolidate Piper with

CCI in a manner favorable to CCI.

10. Denies each and every allegation contained in paragraph 10 of the complaint, except admits that on or about and between January 23, 1969 and August 4, 1969 CCI made tender and exchange offers for Piper stock and refers to said offers for their contents.

11. Denies each and every allegation contained in paragraph 11 of the complaint, except admits that CCI announced a specific package to be exchanged for Piper stock in its last offer.

12. Denies each and every allegation contained in paragraph 12 of the complaint.

13. Denies each and every allegation contained in paragraph 13 of the complaint.

14. Denies each and every allegation contained in paragraph 14 of the complaint.

15. Denies each and every allegation contained in paragraph 15 of the complaint.

16. Denies each and every allegation contained in paragraph 16 of the complaint.

17. Denies each and every allegation contained in paragraph 17 of the complaint.

18. Denies each and every allegation contained in paragraph 18 of the complaint.

19. Denies each and every allegation contained in paragraph 19 of the complaint.

20. Denies each and every allegation contained in paragraph 20 of the complaint.

21. Denies each and every allegation contained in paragraph 21 of the complaint.

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22. Denies each and every allegation contained in paragraph 22 of the complaint.

23. Denies knowledge or information sufficient to form a belief as to what plaintiff partially bases his claims upon, except denies that the cases reported at 480 F.2d 341 have any applicability to this action.

AS AND FOR A FIRST
AFFIRMATIVE DEFENSE

24. Plaintiff has failed to state a claim or claims against defendant upon which relief can be granted.

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

25. Plaintiff does not have standing to assert the allegations contained in the complaint.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

26. The allegations in the complaint are barred by the Statute of Limitations in that the alleged right of action set forth in the complaint did not accrue within the period set forth in the applicable Statute of Limitations before the commencement of this action.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

27. The allegations in the complaint are barred by laches. Plaintiff had notice of all the alleged facts and of all the alleged acts of the defendant set forth in the complaint and nevertheless refrained from filing a summons and complaint in this action until August 1, 1975 and has thereby been guilty of such laches as should in equity bar the plaintiff from maintaining this action in that more than six years have elapsed since any acts or other conduct on which plaintiff purports to base his complaint.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

28. This Court lacks jurisdiction over the person of said defendant.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

29. Plaintiff is estopped by equity from prosecuting this claim. Plaintiff was the attorney of record in a suit brought by his wife, Lillian Stull, and commenced on or about February 4, 1969, as well as a subsequent suit by said Lillian Stull commenced in 1972, both of which were based on the matters which form the basis for the suit at bar and are still pending. The bringing of such actions and the matters alleged therein equitably estop this plaintiff from proceeding with this suit on his own behalf at this time.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

30. If it is held that plaintiff has alleged a proper class action, plaintiff cannot represent such class because he is not a member thereof, is not a proper representative and has a conflict of interest.

WHEREFORE, defendant Thomas F. Piper demands judgment dismissing the complaint against him together with costs and disbursements of this action.

CHADBOURNE, PARKE, WHITESIDE & WOLFF

by PAUL G. PENNOYER JR.
A Member of the Firm
Attorneys for William T. Piper, Jr.
30 Rockefeller Plaza
New York, New York 10020
(212) 541-5800

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. STULL,

Plaintiff,

-against- **ANSWER**

NICHOLAS H. BAYARD, PAUL L. MILLER, HOWARD PIPER, THOMAS F. PIPER and WILLIAM T. PIPER, JR., individually and as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, deceased, NICOLAS M. SALGO, DAVID W. WALLACE, BANGOR PUNTA CORPORATION, and PIPER AIRCRAFT CORPORATION,

75 Civ. 3782
(IBW)

Defendants.

- x

Defendant Howard Piper, by his attorneys, Chadbourne, Parks, Whiteside & Wolff, answers the complaint herein as follows:

1. Denies each and every allegation contained in paragraph 1 of the complaint, except admits that plaintiff purports to bring this action under the statutes and sections set forth therein.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint.

3. Denies each and every allegation contained in paragraph 3 of the complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the complaint, except admits that upon information and belief as of June 1973 plaintiff was the owner of 75 shares of Piper Aircraft Corporation ("Piper") stock of which 25 shares were issued as a stock dividend.

5. Denies each and every allegation contained in paragraph 5 of the complaint, except admits that on or about and prior to August 4, 1969 Piper was a Pennsylvania corporation and engaged in, among other things, the manufacture of light aircraft, it had approximately 1,641,890 shares of stock issued and outstanding which were traded on the New York Stock Exchange, and at certain times William T. Piper, William T. Piper, Jr., Howard Piper and Thomas F. Piper were officers and directors of Piper and owned stock of Piper.

6. Denies each and every allegation contained in paragraph 6 of the complaint, except admits that William T. Piper died on or about January 15, 1970 and that Thomas F. Piper, William T. Piper, Jr. and Howard Piper are the Executors of his Estate.

7. Neither admits nor denies the allegations contained in paragraph 7 of the complaint since they do not relate to said defendant.

8. Neither admits nor denies the allegations contained in paragraph 8 of the complaint since they do not relate to said defendant, except admits that prior to August 4, 1969 The First Boston Corporation served as investment advisor for Piper in connection with certain matters.

9. Denies each and every allegation contained in paragraph 9 of the complaint, except admits that Chris-Craft Industries, Inc. ("CCI") is a Delaware corporation whose securities were traded on the NYSE prior to August 4, 1969, and that after May 1969 CCI sought to acquire control of Piper and to merge or consolidate Piper with CCI in a manner favorable to CCI.

10. Denies each and every allegation contained in paragraph 10 of the complaint, except admits that on or about and between January 23, 1969 and August 4, 1969 CCI made tender and exchange offers for Piper stock and refers to said offers for their contents.

11. Denies each and every allegation contained in paragraph 11 of the complaint, except admits that CCI announced a specific package to be exchanged for Piper stock in its last offer.

12. Denies each and every allegation contain in paragraph 12 of the complaint.

13. Denies each and every allegation contained in paragraph 13 of the complaint.

14. Denies each and every allegation contained in paragraph 14 of the complaint.

15. Denies each and every allegation contained in paragraph 15 of the complaint.

16. Denies each and every allegation contained in paragraph 16 of the complaint.

17. Denies each and every allegation contained in paragraph 17 of the complaint.

18. Denies each and every allegation contained in paragraph 18 of the complaint.

19. Denies each and every allegation contained in paragraph 19 of the complaint.

20. Denies each and every allegation contained in paragraph 20 of the complaint.

21. Denies each and every allegation contained in paragraph 21 of the complaint.

22. Denies each and every allegation contained in paragraph 22 of the complaint.

23. Denies knowledge or information sufficient to form a belief as to what plaintiff partially bases his claims upon, except denies that the cases reported at 480 F.2d 341 have any applicability to this action.

AS AND FOR A FIRST
AFFIRMATIVE DEFENSE

24. Plaintiff has failed to state a claim or claims against defendant upon which relief can be granted.

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

25. Plaintiff does not have standing to assert the allegations contained in the complaint.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

26. The allegations in the complaint are barred by the Statute of Limitations in that the alleged right of action set forth in the complaint did not accrue within the period set forth in the applicable Statute of Limitations before the commencement of this action.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

27. The allegations in the complaint are barred by laches. Plaintiff had notice of all the alleged facts and of all the alleged acts of the defendant set forth in the complaint and nevertheless refrained from filing a summons and complaint in this action until August 1, 1975, and had thereby been guilty of such laches as should in equity bar the plaintiff from maintaining this action in that more than six years have elapsed since any acts or

other conduct on which plaintiff purports to base his complaint.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

28. This Court lacks jurisdiction over the person of said defendant.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

29. Plaintiff is estopped by equity from prosecuting this claim. Plaintiff was the attorney of record in a suit brought by his wife, Lillian Stull, and commenced on or about February 4, 1969, as well as a subsequent suit by said Lillian Stull commenced in 1972, both of which were based on the matters which form the basis for the suit at bar and are still pending. The bringing of such actions and the matters alleged therein equitably estop this plaintiff from proceeding with this suit on his own behalf at this time.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

30. If it is held that plaintiff has alleged a proper class action, plaintiff cannot represent such class because he is not a member thereof, is not a proper representative and has a conflict of interest.

WHEREFORE, defendant Howard Piper demands judgment dismissing the complaint against him together with costs and disbursements of this action.

CHADBOURNE, PARKE, WHITESIDE & WOLFF

By S/ PAUL G. PENNOYER, JR.
A Member of the Firm
Attorneys for Howard Piper
30 Rockefeller Plaza
New York, New York 10020
(212) 541-5800

CA44

Answer of The First Boston Corporation

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

RICHARD J. STULL, :

Plaintiff, :

-against- :

NICHOLAS H. BAYARD, PAUL L. MILLER, HOWARD PIPER, THOMAS F. PIPER and WILLIAM T. PIPER, JR., individually and as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, deceased, NICHOLAS M. SALGO, DAVID W. WALLACE, BANGOR PUNTA CORPORATION, THE FIRST BOSTON CORPORATION and PIPER AIRCRAFT CORPORATION., : : :

Defendants.

- - - - - - - - - - - - - - - - - -

ANSWER

75 Civ. 3782 (IBW)

Defendant, The First Boston Corporation ("First Boston"), by its attorneys, Sullivan & Cromwell, answers the complaint herein as follows:

1. Denies the allegations in paragraph 1, except admits that plaintiff purports to bring this action under Sections 14(d) and 14(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78n (d) and (e)) and the Rules of the Securities and Exchange Commission applicable thereto.

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 2, 4, 5, 6, 7, 9, 10 and 11.

3. Denies the allegations in paragraph 3, except admits that plaintiff purports to bring this action as a class action.

4. Denies the allegations in paragraph 8, except admits that First Boston is a Massachusetts corporation

which is and was an investment banking firm and broker-dealer and that Paul L. Miller is and was president of First Boston and that Nicholas H. Bayard was a vice president of First Boston. First Boston avers that it acted as dealer-manager for Bangor Punta Corporation ("BPC") in its exchange offer for the shares of Piper Aircraft Corporation ("Piper") and that Nicholas H. Bayard is no longer an officer or employee of First Boston.

5. Denies the allegations in paragraphs 12, 13, 14, 15, 17, 18, 19, 20, 21 and 22.

6. Denies the allegations in paragraph 16 of the complaint, except admits that First Boston had evaluated the package of securities offered in the Bangor Punta exchange offer to be worth $80 per Piper share.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. Plaintiff has failed to state a claim against First Boston upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. Plaintiff's claims are barred by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred by laches.

WHEREFORE, defendant First Boston demands judgment dismissing the complaint as against it together with the costs and disbursements of this action.

Dated: New York, New York
September 30, 1975

SULLIVAN & CROMWELL

By ________________________
(A Member of the Firm)
48 Wall Street
New York, New York 10005
(212) 952-8100

Attorneys for Defendant
The First Boston Corporation

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause in accordance with Rule 5, Federal Rules of Civil Procedure, on this 30th day of September, 1975

SULLIVAN & CROMWELL

By George A Schulze

CA48

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -x

RICHARD J. STULL, :

Plaintiff, :

-against- :

NICHOLAS H. BAYARD, PAUL L. MILLER, :
HOWARD PIPER, THOMAS F. PIPER and
WILLIAM T. PIPER, JR., individually :
and as Executors of the Estate of
WILLIAM T. PIPER, Deceased, :
NICHOLAS M. SALGO, DAVID W. WALLACE,
BANGOR PUNTA CORPORATION, THE FIRST :
BOSTON CORPORATION and PIPER AIR-
CRAFT CORPORATION, :

Defendants. :

- -x

Deposition of plaintiff RICHARD J. STULL, taken by defendants, pursuant to notices dated October 9, 1975 and October 10, 1975, at the offices of Messrs. Webster, Sheffield, Fleischmann, Hitchcock & Brookfield, One Rockefeller Plaza, New York, New York, on December 16, 1975, at 10:40 a.m., before Fred Lorber, a Certified Shorthand Reporter and Notary Public of the State of New York.

APPEARANCES:

Messrs. DEMOV, MORRIS, LEVIN & SHEIN,
Attorneys for plaintiff
40 West 57th Street
New York, New York
BY: IRVING BIZAR, ESQ.,
Of Counsel

Messrs. WEBSTER, SHEFFIELD, FLEISCHMANN,
HITCHCOCK & BROOKFIELD,
Attorneys for defendant Bangor Punta
Corporation
One Rockefeller Plaza
New York, New York
BY: ROGER L. WALDMAN, ESQ.
ALLAN GRAF, ESQ.,
Of Counsel

Messrs. SULLIVAN & CROMWELL,
Attorneys for defendant The First Boston
Corporation
48 Wall Street
New York, New York 10005
BY: CHARLES W. SULLIVAN, ESQ.,
Of Counsel

Messrs. PATERSON, BELKNAP & WEBB,
Attorneys for defendant Piper Aircraft
Corporation
30 Rockefeller Plaza
New York, New York
BY: WILLIAM MULLER, ESQ.,
Of Counsel

Messrs. CHADBOURNE, PARK, WHITESIDE & WOLF,
Attorneys for defendants William T. Piper, Jr.
and Thomas F. Piper
30 Rockefeller Plaza
New York, New York
BY: RALPH NICKERSON, ESQ.,
Of Counsel

RICHARD J. STULL, being first duly sworn by the Notary Public (Fred Lorber), testified as follows:

EXAMINATION BY MR. WALDMAN:

Q Please state your full name.

A Richard J. Stull, S-t-u-l-l.

Q Your address?

A 6 East 45th Street, New York City.

Q Is that a home address?

A You want home address?

Q Or office address?

A Office.

Q And your home address?

A Cloverly Circle, East Norwalk, Connecticut.

Q What is your profession?

A Lawyer.

Q And how long have you been a lawyer?

A Over forty years.

Q Are you connected with a firm?

A Stull, Stull & Brody, 6 East 45th Street, New York City.

Q And was that firm formerly Stull & Stull?

A Correct.

Q When it was Stull & Stull, how many members of the firm were there?

A Two.

Q Who are they?

A Pardon?

Q Who were they?

A Robert Stull and myself.

Q What was the nature of the practice of Stull & Stull?

MR. BIZAR: What do you mean by the nature of the practice, Mr. Waldman?

Q Was it a general practice? Or was it a specialized practice?

A General practice.

Q Incidentally, how long were you a member of Stull & Stull, from when to when?

A I don't recall. Before that, it was Stull & Gore. I would have to check it.

Q Well, perhaps you can give us a chronology. You graduated from law school in what year?

A Oh, gosh, in the twenties.

Q And after you graduated from law school, were you connected with a firm?

A Yes. Jonas & Newberger.

Q And for --

A They are out of business today.

Q For about how long were you with them?

A A couple of years.

Q And then what did you do next?

A Went out for myself.

Q And how long were you in practice by yourself?

A Since about 1930.

Q And when was Stull & Gore formed, was that the first partnership?

A Yes. I would say about during the depression we formed the firm.

Q And how long did that partnership go on?

A Until I went in the service, which would be, I think I can give you that. That would be 1943.

Q And when did you get out of the service?

A I'm sorry, it didn't after I went into the service, it didn't terminate until after I got out.

Q When did you get out?

A That would be about '45, the end of '45.

Q How long thereafter did you terminate, did Stull --

A Not long.

Q And then what did you do?

A Within a year, less than a year. And then

I practiced for myself for a while and then Bob Stull came in with me.

Q And when was that approximately?

A 1950.

Q Before 1960?

A Oh, yes.

Q Have you ever in your practice been involved in class actions or been a lawyer for a class?

A Yes.

Q Could you list them?

A No.

Q You cannot list them?

A I could. I suppose I could give you a statement of the class actions that I've been in. I would have to do some research. Would a date help you?

Q Well, since 1970, how many -- or could you list those that you have been involved in?

MR. BIZAR: When you say involved in, you mean as counsel?

MR. WALDMAN: As counsel.

Q As counsel.

A Since 1970, I would say --

Q Or perhaps it would be easier if we just went backwards. But since 1970, what class actions hav you been involved in as counsel?

A I wouldn't undertake to try to list them without some help.

Q You do have those records available?

A Of course. We have, we can -- I've never had a question, this question come up. We can reconstruct the number of class actions we have been in. It would take sometime but it is not difficult.

Q How many would you estimate you have been involved in since 1970?

A Twenty, thirty.

Q And have you also been involved as counsel in any derivative actions?

A When you said class actions, I suppose I thought of representative actions which would include class and derivative. But if you are limiting it to that and want me to segregate them, I don't know --

Q That included both?

A I would say so, yes.

Q And if I asked you the same question as between 1965 and 1970, what would your answer be as to the number of --

A They have been on the increase. They have been on the increase within the last couple of years.

Substantially increased.

Q What percentage of your practice would you say is devoted to representative actions, as you define them, including both class actions and derivative actions?

A I would say about 80 per cent.

Q And was that true also between 1965 and 1970?

A No.

Q What percentage would you say?

A I would say maybe 20 per cent. Maybe, if that.

Q Now, have you ever been a plaintiff in a lawsuit before?

A Yes.

Q Could you list them, please?

A Yes. The only other case that I have ever been a plaintiff in is Stull against Baker, a representative case. That's the only one at least that comes to mind.

If you will refresh me as to any other, I would be glad to help, to acknowledge that. But it comes to mind Stull against Baker, that was the Lockheed case.

Q And who represented you in Stull v. Baker?

A My firm.

Q Have any other members of your family ever been plaintiffs in representative actions?

A My wife.

Q How many actions has she been a plaintiff in?

A Two that come to mind.

Q And what lawsuits were they?

A So-called C-l-e-v-i-t-e case. And Piper.

Q When you say Piper, what --

A So-called Piper.

Q What was the title?

A The so-called Piper case.

Q You mean Stull against Green?

A That's right.

Q And Stull against Poole?

A Yes.

Q Now, this other case was what, what was the title of that case, the Clevite?

A Lillian Stull? Let's see, the title of that was Enos, Stull against Enos.

Q What was the nature of that action?

MR. BIZAR: He's already described the nature. He said it was a representative suit. If you have any specific question, ask him.

Q Was it a suit under the Securities Laws?

A Yes.

Q What was the gravamen of the complaint?

A Oh boy -- that's a good question. It can't be answered. There were several causes of action. Fraud, 10b. It involved a merger of Clevite Corporation into Gould, Inc. The case has since been settled.

Q Who was the counsel in the Stull v. Enos?

A Weinstein & Levinson. You mean counsel for us?

Q Counsel for Lillian Stull.

A We were the attorneys of record. Of counsel was Weinstein & Levinson.

Am I answering your question?

Q Do I understand that Stull & Stull was the counsel of record?

A We were the attorneys of record and then we engaged Weinstein & Levinson as counsel.

Q Did Stull & Stull receive a fee as part of the settlement?

A Can we go off the record?

MR. WALDMAN: Sure.

(off-the-record discussion.)

THE WITNESS: There is a fee application pending before Judge Gagliardi.

MR. WALDMAN: Mr. Bizar, we would like a copy of the complaint and the fee application before the next session.

MR. BIZAR: We will take it under advisement, Mr. Waldman. I frankly don't see the relevance to this case and what you propose to do. I want to consider it. It is a matter of public record. You are probably free to go down to the courthouse and make your own copies.

Q Do you own any Piper shares?

A Yes.

Q When did you purchase them?

A I would think they were purchased -- I don't recall. I think that the, that photostats of the certificates, however, were supplied at least to my counsel. And that would refresh my recollection.

I would say in or about January, 1962.

Q Do you know what you paid for them?

A Around 26. That's my recollection.

Q Did your wife purchase shares at the same time?

A I don't know. I don't think so.

Q Any other members of your family purchase shares of Piper?

A Not to my knowledge.

Q Either then or later?

A Well, I don't know the time when my wife bought her shares, the exact time at least. I would say that the time that she bought her shares would be prior to mine, I think. I think.

Have I answered your question?

Q And subsequent to your initial purchase, did you buy any more shares of Piper?

A I think so. Whether it was subsequent or prior, I'm not sure.

Q Incidentally, how many corporations do you own stock in?

A Approximately?

Q Yes.

A Ten.

Q And how many corporations does your wife own stock in?

MR. BIZAR: If you know.

A Perhaps fifteen or twenty, as a guess. But that's a fair approximation, I think.

MR. WALDMAN: Would you mark this.

(Complaint marked Defendant Bangor Punta Exhibit A for identification, as of this date.)

Q Do you have a broker?

MR. BIZAR: You mean now?

MR. WALDMAN: Yes.

A I haven't bought any shres recently. And I don't think I've sold any recently.

Q When you last used a broker, who was the broker?

A Probably Bache & Company.

Q And who at Bache & Company?

A Bill Alpern, A-l-p-e-r-n.

Q And how long has Mr. Alpern been your broker?

MR. BIZAR: I don't know if that's the exact title, if he's a broker. I object to the form of the question.

A I think I can answer it in a form that will be acceptable to you, both of you. He has purchased stock for me on and off, let's say for five years or more. I said or more.

Q In 1969, did you have a broker through whom you purchased and sold stock, one or several?

A I'm trying to recall. I'm not sure. I don't think I bought any stock in '69. I don't know. I just don't know.

Q Have you ever used a brokerage firm?

MR. BIZAR: Let him finish his answer.

A I wouldn't venture to give you an answer to a question like that without being -- without checking carefully.

Q Have you ever used a broker other than Bache & Company?

A Oh, sure. Yes. Indeed. More than one, more than two, several.

Q Would you list those that you can recall?

A Would you take registered reps? One of them at least is out of business.

Q Yes, registered reps.

A Well, Edward S-h-r-a-g-e-r. I'm trying to think of the firm name that he was with. They are out of business now. I'll give you that. I'll supply the answer if you want. In fact, I think it was through them that I bought the Piper shares. So you might want to know that. But I just don't know, I don't recall offhand. Viner, V-i-n-e-r.

Q Is that a person's name or a brokerage house?

A A brokerage house.

Q Do you know who you utilized there?

A Philip G-o-o-s, I think. Leave off the "I think." Philip Goos is correct. G-o-o-s is correct. I think Buddy Kaye. How far back are you going?

Q Well, if I restricted my question to since 1965, would you eliminate any of those names?

A I don't know. I don't know. I can't really recall. Furthermore, I don't recall the names of the firms that these individuals I mentioned were with at the time. I would have to check this. I just couldn't give you an answer like that. I have to go through a lot of records of stocks. Stocks that were purchased. Stocks that were sold. Stocks that I may still own. That go back to that time.

Q I show you Defendant Bangor Punta's Exhibit A, and ask you if you have seen it before.

A Yes.

Q Can you identify it?

A It is the complaint of myself as plaintiff against Nicholas H. Bayard, et al. as defendants, and it is dated New York, New York, August 1, 1975.

Q It is a complaint in this action, correct?

A Correct.

Q Did you draft the complaint?

A I believe the complaint was drafted by the firm of Demov, Morris, Levin & Shein.

Q Did you have any hand in the drafting of the complaint?

MR. BIZAR: I object to the form of the question. I instruct the witness not to answer.

What do you mean have a hand?

A Was I consulted?

Q Were you consulted?

A Yes. I reviewed the facts with my counsel, Irving Bizar, who is here now.

Q Did you review it after it was drafted?

A Certainly.

Q Did you write any memorandum or initial draft or writing of any kind in connection with the complaint?

A Not that I recall.

Q Did you supply any documents to your counsel in connection with the complaint?

A Yes, of course.

Q And what were those documents?

A They were telegrams that were evidentiary matter. Telegrams that were received from Piper Aircraft or rather received from the Piper family under the heading of Piper Aircraft. And evidentiary things. Telegrams that were sent to me, letters that were sent to me. That's not a full answer now. I'm just --

Q Now, directing your memory back to 1969, and the action entitled Stull v. Green, do you recall when that action was commenced?

A It was commenced in February of '69, I think. But if I'm wrong on that date, it was before the meeting that was scheduled in February, '69 and that's my best recollection.

Q And the Stull that was the plaintiff in that action was your wife, Lillian Stull, is that correct?

A Right.

Q And you were the attorney, is that correct?

A My firm was the attorney.

Q Who prepared the complaint?

MR. BIZAR: You mean in his firm or whether it was his firm or somebody else?

MR. WALDMAN: In his firm.

A I think I know what you mean. I can't answer that. I think that we both had a hand in it.

Q One of the documents in our request, we requested that you bring the papers in Stull v. Green. Have you bought the complaint in Stull v. Green?

MR. BIZAR: The Stull v. Green complaint and all the papers thereto were turned over to the firm of Milberg & Weiss when the firm of Stull & Stull or the subsequent name, Stull, Stull & Brody, withdrew from the case. We have some papers but not necessarily those papers that you wish. We have no control over the firm of Milberg & Weiss in terms of what papers they have.

If you have a copy of the Stull against Green complaint and you wish to show it to the witness, he will be free to testify as to that.

Q How did that suit come to be brought?

A How can I answer that question?

MR. BIZAR: Supposing you rephrase it.

Q Prior to the filing of the complaint, did you have any conversations with the plaintiff, your wife?

MR. BIZAR: That only calls for a yes or no answer.

A Yes.

Q When was the first conversation that you had?

MR. BIZAR: You mean respecting the suit?

MR. WALDMAN: Yes.

A Sometime in the last say ten days of January of 196 -- let's see now, it would be 1969.

Q What did she say to you and what did you say to her?

MR. BIZAR: And I object to the question

on the grounds it calls for privileged communications between attorney and client. I instruct the witness that he cannot answer those questions.

MR. WALDMAN: I disagree with your claim of privilege. But I think that's something we probably will have to take up with the magistrate.

Q Now, prior to instituting the suit, was an agreement entered into, a retainer agreement entered into between your wife and the firm of Stull & Stull?

A You mean a formal document?

Q Yes.

A The answer is no.

Q Was there ever any conversation with respect to the terms of the engagement?

A The answer is yes.

Q Who had that conversation?

A I had a conversation with my wife with respect to the fee arrangement and whether Robert Stull spoke to her, I'm not prepared to say.

Q What was the fee arrangement?

MR. BIZAR: I'm going to object to the question on the grounds of privileged communication but I think I'll permit the witness to answer, since

I don't think those arrangements would be pertinent any more, the witness having expressly waived any claims to fee in the Lillian Stull litigations, so you will answer it and just note my objection.

THE WITNESS: What's the question?

(Question was read.)

A The fee was to be such fee as allowed by the court in an award.

Q Has it ever since then been reduced to writing, that agreement?

A No. No. Absolutely not.

Q Do you keep time records?

A Today, yes.

Q 1969?

A I doubt it.

Q When did you begin to keep time records?

A I can't say for sure, but if it were prior to the Court of Appeals decision in the Grinell case.

Q You say it was prior to the Court of Appeals decision?

A Oh, yes. Substantially prior. But just when, I wouldn't be able to say.

Q And what --

A And we always kept some sort of, some sort of a record that we would be able to use for reference.

Q What were the terms of your agreement with Mrs. Stull regarding disbursements and costs?

A She was obligated to pay the disbursements and obligated to pay any costs if we lost the case.

Q Did you incur any disbursements?

A In the Piper case?

Q Yes.

A Of course.

Q Did you ever receive any payment from Mrs. Stull for them?

MR. BIZAR: I am going to object to that and instruct the witness not to answer. I think that's going a little bit outside the scope of proper questions, and I think that may still be privileged.

MR. WALDMAN: It can't be work product.

MR. BIZAR: I didn't say work product.

MR. WALDMAN: What is the grounds of the privilege?

MR. BIZAR: Attorney-client privilege, sir.

MR. WALDMAN: I will not burden the record continually saying we will have to take it up with the magistrate, but we will understand that silence does not indicate acquiescence.

MR. BIZAR: You are free to take up whatever you wish with the magistrate.

Q Now, in the Stull v. Green suit, who at your firm did the majority of the work on it?

MR. BIZAR: You mean from the day of its inception to the point when the firm withdrew?

MR. WALDMAN: Correct.

A Oh, I think that I did. I think I could say that I did, I think that reasonably so.

Q And you reviewed all papers, did you not?

A Well, I would say that it is our policy to review the papers. But to say that there were -- no papers missed my attention, I wouldn't say that. But anything substantial, I think that I could honestly say that would not get by me, would not get by without -- would not go by without my having looked at it.

Q Now, prior to the filing of the Stull against Green complaint, did you have any conversations regarding the matters in the complaint with anyone other than your wife?

A In my own firm?

Q Yes, in your own firm.

A Well, Robert Stull.

Q Anyone outside your firm?

A I don't recall any.

Q Did you have conversations with your wife?

MR. BIZAR: That's already been asked and answered, Mr. Waldman.

MR. WALDMAN: Off the record.

(Off-the-record discussion.)

A Yes, of course.

Q What was said in those conversations?

MR. BIZAR: Same objection as before on the grounds of attorney-client privilege and I instruct the witness he is not compelled to answer those questions.

MR. WALDMAN: Do I understand, Mr. Bizar, that you will object and instruct the witness not to answer any conversations between him and his wife regarding the matters in Stull v. Green or Stull v. Poole during the period that the firm of Stull & Stull represented Mrs. Stull?

MR. BIZAR: Yes.

Q Have you brought here any memoranda or drafts concerning the first complaint in Stull against Green?

MR. BIZAR: Without in any

acknowledging that such memoranda exist, we would object to producing any memoranda on the grounds that they are attorney work product, and not subject to your discovery. The witness has indicated, I think, and I think I can make that representation, that he has no memoranda of conversations with any third party witnesses.

Any memoranda he may have, and we don't acknowledge that he does, because I haven't frankly looked, but he may well have them, reflect the results of his mental impressions, his research and his legal analyses and thought processes and I think they are immune from discovery.

The witness also reminds me that some of them were turned over to the firm of Milberg & Weiss, at least the bulk of the files. So we may not have anything of that nature here but I want to make clear to you that whether we have them or Milberg has them, I oppose their production for that reason.

Q The complaint was filed in early February, I believe you testified.

MR. BIZAR: '69 you're talking about?

A Am I correct on the date?

Q I believe that's so. After filing the complaint, did you communicate with any other shareholders?

A You mean people who owned Piper shares?

Q Correct.

A No. You don't mean attorneys for people, do you?

Q No, no. I'm talking about other shareholders.

A Shareholders, the answer is no.

Q Incidentally, prior to your retention as counsel, let's get that fixed. When was the firm of Stull & Stull retained as counsel?

MR. BIZAR: In what case?

Q In Stull against Green.

A I told you that. I would say --

MR. BIZAR: The last ten days of January, 1969.

THE WITNESS: That's correct.

Q How do you fix that date as the last ten days of January?

A Well, to the best of my recollection, the Chris-Craft offer was made, first offer was made sometime at the end of the last -- within, the first part of those last ten days. All right? Then we got the meeting of stockholders scheduled for the early part of February, right? And that's how I fixed that date, that it was within that period.

Now, if you want a more exact date, I'll have to try to reconstruct it. I think I can.

Q I think we would want to have that.

A To reconstruct it?

Q Yes.

MR. BIZAR: We will take your request for us to reconstruct that under advisement. I don't know that we are obligated to do that. Mr. Stull will take it under advisement. If it's possible, he will do it.

A We could do it right now. What is the date of the offer, of the Chris-Craft tender offer? Am I correct that it was the end of January?

Q Yes, January 23rd and it may have been in the, reported in the press on January 24th.

A See, this was the date that is sticking in my mind. I didn't want to use that date. But now I will agree with you. That that is probably the date.

Now, it was between that date and, when was the meeting, wasn't it around February 5th, February 4th,

February 3rd?

Q It was scheduled for February 4th.

A It was between those two dates. Now we've got it.

Q In terms of the events in those ten days, and you will recall that several things occurred --

A Yes.

Q -- in terms of communications with shareholders, after what event or before what event was the firm retained?

A After the Chris-Craft offer and before the meeting.

Q Did you have any conversations with your wife about the offer prior to your retention as counsel?

MR. BIZAR: That calls for a yes or no answer.

A I would say yes. Absolutely.

Q What did she say to you, what did you say to her?

MR. BIZAR: I'm going to object to that on the grounds that it is privileged. Privileged first in terms of attorney-client privilege. And secondly, there is a husband and wife privilege. I'm not sure that that can be waived alone by the husband.

MR. WALDMAN: Mr. Bizar, my question is about conversations before he was retained as counsel.

MR. BIZAR: You can have an attorney-client privilege encompass a number of conversations including conversations held just before you are retained. The act of retention may be "I hereby retain you." But conversations may be with counsel with a view towards retaining counsel. So the attorney-client privilege is not governed solely by the fact of retention.

Indeed, attorney-client privilege can be, and counsel turns it down or whatever reason that counsel is retained.

Q How did you receive word of the offer, Chris-Craft offer of January 23rd or 24th, 1969?

A I don't remember, but I think that the first thing that I knew of the offer, I think was a telegram, I think.

Q What did you do when you received the telegram?

A Probably was eating my breakfast, I don't know. I don't recall. I read it. That's what I did. I read the telegram. I remember receiving a telegram.

Q And did you tender your shares?

A No. I still have the shares.

Q Did your wife tender her shares?

MR. BIZAR: If you know. That's an operative fact.

A No.

Q Did you have a conversation with your wife about tendering her shares, whether either of you would tender your shares?

MR. BIZAR: I'm going to object to the form of the question. I instruct you not to answer.

Q Did you have a conversation with your wife about whether you would tender your shares?

A I don't think so.

Q Did you have a conversation with your wife about whether she would tender her shares?

MR. BIZAR: I have an objection as to that. I instruct you not to answer.

MR. WALDMAN: Grounds?

MR. BIZAR: Attorney-client privilege. Husband-wife privilege.

Q After you filed the complaint, did you have any communication with members of, with Piper Aircraft or --

A After we filed the complaint?

MR. BIZAR: You mean other than by legal documents that followed?

MR. WALDMAN: Correct.

THE WITNESS: Did I converse with who?

Q Anyone in Piper, let's take it in the month of February.

A I don't recall. I think I may have spoken with someone there, yes.

Q Who is that?

A I think it would be William Piper.

Q Junior?

A I don't think so.

Q You spoke to William Piper, Sr.?

A I think so.

Q What was the nature of the conversation?

A Was he the president or chairman of the board? I don't know, I get the two mixed up. Piper, Sr. and Jr.

Q Whoever it was, what did he say to you and what did you say to him?

A I would have to refresh my recollection.

Q Do you have documents which can refresh your recollection?

A I -- either I have or Milberg & Weiss have them. But there are, there is something as I recall that speaking with him, and I, if I did -- and I'm almost sure that it was, that I made a memorandum.

Q You believe that was in the month of February?

A Mr. Waldman, I'm not sure, but I would say yes. Wait a minute. I think so.

Q Let us bound it after the Chris-Craft offer and before Bangor Punta's entry onto the scene.

A It was before Bangor Punta came into the picture. Bangor Punta came into the picture about May, didn't they?

Q Yes. These questions are all between, in the months of February, March and April.

A And April. But don't forget, I haven't seen the files in Stull against Green for a long time. My recollection is that I had a conversation with one of the Pipers and I made a memorandum of that conversation and that memorandum should be in existence.

Q Did you have any further communications in that period with any, with Piper or any members of its management?

A Let me see -- that would be -- I think not.

Q Did you have any communications with Grumman?

MR. BIZAR: Again, other than with legal papers?

MR. WALDMAN: Legal papers we are defining as pleadings, interrogatories, motion papers.

MR. BIZAR: Briefs.

MR. WALDMAN: Yes, but excluding letters.

A You are excluding conversations with Grumman's lawyers, aren't you?

Q In this question, yes.

A I really don't recall. I don't think so.

Q Did you have any communications with Chris-Craft --

A I may have. If you give me a letter that I wrote to Grumman and say didn't you write this letter, I would say of course, I did. But I just don't recall it.

Q If you had a conversation, would it be memorialized?

A Absolutely.

Q It is your practice to memorialize your conversations?

A That is right.

Q Did you have any communications with

Chris-Craft Industries during this period?

A With Chris-Craft? The same as Grumman, if I had them, I would reduce them to writing and put a memorandum in the file, but I'll be darned if I can recall. Their attorneys, absolutely. But the --

Q During this February-through-April period, did you have any communications with Bangor Punta Corporation?

A No, absolutely none.

Q Did you have any communications during this February-April period with counsel for any of the foregoing?

A Certainly.

MR. BIZAR: You mean other than Bangor Punta?

THE WITNESS: We understand what we are saying.

Q Other than Bangor Punta.

A The answer is yes.

Q And did you have any communications with counsel for Bangor Punta during the February-April period?

A No, absolutely not.

Q Now, how many communications, to the extent of your recollection, did you have with counsel for Piper?

MR. BIZAR: And Mr. Waldman, again, I may be supercautious, but by communications, we mean other than motion papers, legal pleadings and the like?

MR. WALDMAN: Correct.

THE WITNESS: He would be referring to telephone conversations for the one thing.

A I can't answer that.

Q More than one?

A Oh, sure. Don't forget that before, there was something before Stull against Green, too. Wait a minute now. Wasn't there, wasn't there some application over in the Eastern District of New York? Robert Stull took care of that.

Q What was that?

A I don't recall. But it's in the back of my mind that before Bartels or somebody, Judge Bartels. I am not sure. I -- but it's in the back of my mind that there is something there. That involved, it involved Chris-Craft -- oh dear, I got to remember this. Wait a minute. Wasn't the Cravath firm representing somebody early in the picture? Wasn't there an injunction sought -- wait a minute. Piper was originally represented -- no, no. Chris-Craft was originally represented by the

Cravath firm. Chris-Craft had some claim or case that was brought in the Eastern District of New York. And Robert Stull was involved in that.

Don't ask me what it was, because I don't recall it. But there are records and you should have them, and Milberg should have them.

Q Who did you communicate with at -- who was --

A I probably communicated with the Cravath firm. Well, my firm, when I say I did, I mean we did. Is that all right?

Q Well --

A To answer it that way?

Q Yes.

A All right. We probably communicated with the Cravath firm. And with the Chadbourne firm. And I think that would be it. Oh, yes, Mudge Rose.

Q And Mudge Rose. And what about Paul Weiss?

A Nixon Mudge in those days.

Q What about Paul Weiss?

A They weren't in the picture. If I'm correct, they were not in the picture at that time.

Q What -- who at, who were the lawyers, who at the Chadbourne firm did you communicate with?

A I don't recall.

Q What?

A I don't recall.

Q What did you say to whomever you communicated with and what did he say to you?

A I don't recall. It was probably Paul Pennoyer, but it's just a guess.

Q Whatever there is, it would be memorialized?

A Who was the lawyer before Paul Pennoyer? Who was the lawyer that actually -- I was going to use a word that I don't want to use -- who was the lawyer who represented Piper in the beginning? Out of Chadbourne's firm?

MR. NICKERSON: Zachary Shimer ?

THE WITNESS: No. Absolutely not.

MR. SULLIVAN: Deming?

Q If I suggest Don Deming --

A Chuck remembered it. It's Deming.

Q You had a conversation with Mr. Deming?

A I'm not sure. I think so. I'm not -- I can't recall to be for certain. It may be a tie-in with my conversation with Piper. I just don't recall. These are just names.

Q If there were one, you would have written a memorandum of the conversation?

A Certainly.

Q Who did you communicate with at Mudge Rose?

A I don't recall.

Q That, too, would be memorialized, if you did, correct?

A Correct. I can't just recall.

Q And who would you have communicated with at Cravath, do you remember, do you remember who was the lawyer?

A No. I don't recall.

Q When to your recollection did Paul Weiss come into the picture?

A Months later.

Q Months after April?

A I'm not sure. I'm not going to say. I can't recall.

Q All right.

A Just a second. Roger, I want to state on the record, I had a little stroke a couple of years ago and since that time, some things I can recall beautifully and some things are out of my mind completely.

(Adjourned for lunch.)

(AFTERNOON SESSION)

RICHARD J. STULL, having been previously sworn, resumed the stand and testified further as follows:

MR. WALDMAN: Mr. Bizar, in our notice of deposition, we asked that the plaintiff bring to this examination, among other things, all documents concerning the action Stull v. Green and in Stull v. Poole.

Have you brought any documents?

MR. BIZAR: As I informed you earlier, Mr. Waldman, the full legal files and most every other kind of files were turned over to the firm of Milberg & Weiss when the firm of Stull & Stull withdrew from the Stull actions.

We have, however, located a scattered file containing in those particular audits some documents, I guess at best they can be determined to be duplicates of papers, probably the Milberg files. We have had no occasion to check it.

I am giving you those documents now with one general exception. There are three documents which are basically a motion, an amended complaint and a document entitled "Second Amended Complaint." I am deferring production of those items because they have penciled interlineations in the handwriting of one or more people of the Stull office referring to either thoughts, analysis, et cetera, and I will not produce those documents for that reason.

I suspect, however, that you probably have copies of the documents in any event, or if not, at least the Milberg firm has it without the penciled interlineations.

MR. WALDMAN: Would you examine the documents, Mr. Stull, without showing them to me, and state whether it is your handwriting.

THE WITNESS: Some is. And some is not.

MR. WALDMAN: I think we will leave the record at that --

THE WITNESS: All if it, however, is in the handwriting of some one or more people of our office.

MR. WALDMAN: That's one of the matters which we will get a ruling on.

THE WITNESS: There is nothing that

Mr. Bizar showed me just now that you do not have a copy of.

MR. WALDMAN: Except we do not have a copy of the penciled marks without -- either I don't know yes or no, because I don't know what the documents are, whether we also have the documents.

THE WITNESS: I don't want to be argumentative. Pencil notations are certainly the work product of my firm.

MR. WALDMAN: Let's mark this.

(Document marked Defendant Bangor Punta Exhibit B for identification, as of this date.)

EXAMINATION (Cont'd) BY MR. WALDMAN:

Q I show you Defendant Bangor Punta's Exhibit B and ask you if you can identify that. It is one of the documents that you produced.

A It appears to be a part of an affidavit, it appears to be a part of a copy of an affidavit signed by the plaintiff, Lillian Stull. No, I take that back.

It appears to be a part of a complaint.

Q There is some handwriting on the left-hand margin of the first page. Is that your handwriting?

A Yes. Wait a minute. Some of it is. Most of it -- all of it is. Wait a minute.

Q On the first page.

A On the first page.

Q Will you please read the handwritten notation on the first page?

A Can't you read that? In the margin, it says and should be enjoined in brackets. And contrary to in brackets, public -- something is stricken out. Policy.

MR. BIZAR: Close bracket.

THE WITNESS: Close bracket.

A (Continuing) Piper's interests in which Chris-Craft has no experience -- no, Piper's interest and another statement and then another statement, in which Chris-Craft has no experience. And then there is another statement, contrary to the position of the Anti -- no, I can't read it. Oh, I think it says Antitrust Division of the Department of, the Justice Department. Then there is another one that says the interest of Piper and the position taken by the Antitrust Division of the United States Department of Justice, and some word stricken, such transactions.

That completes it. Wait a minute now. The end, in the fourth line at the top of the page, there is brackets around the clause, and someone other than myself wrote in "an," an "n" after the word "a," making it a-n, unrelated. Whatever that refers to, and somebody put in a comma indicating that something was probably added to that in another version.

I hope you don't mind my interpretation, gentlemen. Because that's the best I can do.

Q What was the position of the Antitrust Division referred to?

A I don't know. I don't remember. I would be guessing.

Q Well, did you ever consider that the Chris-Craft takeover attempt was a violation of the antitrust laws?

A I don't remember. Did I consider it? It must have been something that came up at that time. Now, I just don't remember it, whether it was my position, our position, the position of one of the defendants, with which I agreed or disagreed. I just don't, I can't recall about it.

Q But this is your handwriting?

A I said so.

Q Did you ever draft a complaint which alleged a violation of the antitrust laws?

A I don't remember. If I did, you have a copy of it. Public record.

Q My question goes beyond complaints that were filed.

A I don't remember. I don't remember. If I put my mind on it, I might try to recall what that question was at that time.

Q Let me again hand you your notes. Did you consider the antitrust question?

A Evidently, we had some thoughts in it. Whether we agreed with it or disagreed with it, I don't remember. You know that Chris-Craft was a party defendant to the actions?

Q Yes, I do. Now, did there come a time when Chris-Craft made an exchange offer, an offer of securities?

A Yes, I know what you mean.

Q To --

A Yes, they did.

Q To Piper shareholders?

A Yes, there did.

Q And when was that made?

A In 1969.

Q When in 1969?

A I think around June or July.

Q And how did you find out about it?

A It was published, I believe, in the Times. I think I got notice of it directly. I think those would be the only sources. The two sources. There may have been another source, but I just don't recall.

Q One of the things which we requested was, to be produced, was all documents concerning Chris-Craft Industries' tender and exchange offer to the shareholders during the period January to August, 1969.

Did you bring any documents relating to the exchange offer?

A The exchange offer?

MR. BIZAR: I don't believe we have any documents relating to the exchange offer. We have copies of telegrams --

THE WITNESS: No, that's before.

MR. BIZAR: -- sent by the Piper people. But not, not the documents relative to the Chris-Craft offer. And I don't know why, but -- they may have been turned over to Milberg & Weiss.

Q Did you ever get a prospectus or registration statement?

A Not that I specifically recall, but I would assume I did.

Q And did you read it?

A I would -- to the best of my recollection, yes.

Q Did you accept the Chris-Craft offer?

A No.

Q Why not?

A We considered it. My firm and myself considered it. We considered, at least I did, considered that the very fact that they were increasing their offer was proof to me that it was inadequate. And it bore out what the Piper people had said. Piper management. Piper family, if you will.

Q Well, now, you say that they were increasing their offer. What increase is it that you are talking about?

A The original offer as I recall it was $65 a share, right? All right. Now, what they did, was to, they gave a package of securities and -- which they said was worth more. I don't recall whether they said it was worth more or not. But I assume today that it was worth more. Of course, today I would have the benefit of what First Boston said. First Boston eventually evaluated that offer as between $70 and $74 a share, if I'm correct. And then they added still a sweetener of $10 more by cash.

So that would bring it up pretty high. It would bring it around $84, $85 a share, right?

Well, that to my mind bore out and bears out my then theory that their offer was absolutely inadequate and that they knew it was inadequate.

Q What, forgetting about what you know now, what you knew then --

A Well, then they were making --

MR. BIZAR: He isn't finished with the question.

MR. WALDMAN: I withdraw the question.

Q You mentioned two factors in a prior answer. One was the fact they were increasing their offer and second, the fact of some prior statement or some statements of Piper management.

What statements of Piper management are you referring to?

A I don't know what you're talking about. What do you mean? Will you please clarify that?

(Record was read.)

Q You spoke about two factors as influencing you to believe that it was Chris-Craft -- new offers were inadequate. That's what I was referring to.

A The Piper management had sent telegrams, letters, and letters, I should say, to me in which they had stated their intention, their position that the Chris-Craft offers -- offer, I think I should say offers, were inadequate. If my memory serves me, there were the original telegrams, and then after the, if my memory serves me, there was one more letter, in words or substance on Piper stationery signed by Piper, either Senior or Junior, in which it was stated that they continued to feel that the offer of Chris-Craft was inadequate. Offer or offers.

Q When did you receive this letter?

A I don't remember. But it was in that period.

Q In the June-July period?

A That's right. It was in the period as I recall it, when Chris-Craft made the better, the second offer, the package offer, shall I call it?

MR. NICKERSON: Off the record.

(Off-the-record discussion.)

Q The telegram you referred to, when did you receive that?

A That was in the end of February -- the end of January or sometime in February, 1969, and I think that February would close that out. And you got to add to the telegrams that there was one or more letters. There were one or more letters.

Q And the letters you are referring to, one or more letters, you received when?

A I would say the letters came subsequently to the telegrams, and they would have come probably in February. Now, they could have come later than that, too. But within that period.

Q When was the -- did they come before or after the Chris-Craft package?

A Before. And then as I said a minute ago, however, there was one that came after the Chris-Craft package, I believe, where the Piper management on Piper stationery continued to advise against the Piper -- against the Chris-Craft package offer for the reason that the same was inadequate.

Q Did you go to any independent persons for an evaluation of the Chris-Craft --

MR. BIZAR: I object to the form of the question. What do you mean by independent persons?

Q Did you talk to anyone about the value of the Chris-Craft offer?

A Outside of counsel for the respective parties, no.

Q What counsel did you speak to?

A I spoke to Chadbourne's firm. The Nixon Mudge firm. Cravath firm. That would be it. I'm leaving out the Paul Weiss firm because I don't think they were in the picture until later.

Q Talking about the package now.

A The package, I think they were in the picture by then. They may have been.

Q Please state the substance of your conversation with the Chadbourne firm with respect to the package.

A I can't remember that. I don't know if I even talked to them about the package, as such.

Q I misunderstood your answer. What is it you spoke to them about?

A We spoke to them about the fact that these offers were, this offer was amended or a new offer made, want to amend pleadings, I just don't remember it.

Q Did you --

A May have wanted to bring in new parties. I just don't remember all of this.

Q Didn't you speak to any of the foregoing counsel about the value of the Chris-Craft offer?

A I don't think so.

Q I believe you testified you did not speak to anyone else.

MR. BIZAR: That's what he testified to.

Q Did you consider speaking to your broker about it?

A No.

Q Why not?

MR. BIZAR: I object to that. I instruct you not to answer.

MR. WALDMAN: Grounds?

MR. BIZAR: You don't have to go into the operations of his mind as to why he didn't consider it or did consider doing a particular thing. I consider that improper.

Q Did you consider consulting Value Line or any other publication that values stocks and exchange and tender offers?

MR. BIZAR: I object to the form of the question. I'll permit you to answer.

THE WITNESS: You will permit?

MR. BIZAR: Yes.

A No.

Q Are you familiar with the publication Value Line?

A Vaguely. And I can't imagine what they would know about Piper Aircraft that would be superior to my knowledge or any other person's knowledge. I read the newspapers.

Q Do you have an opinion as to what the Chris-Craft offer was worth?

A I had an opinion that it was inadequate.

Q But no dollar figure, is that correct?

A No.

Q Is it correct that you had no dollar figure?

A That's right.

Q Did you discuss with your wife the value of the Chris-Craft offer?

MR. BIZAR: That calls for a yes or no answer.

A Yes.

Q What did you say to her and what did she say to you?

MR. BIZAR: Objection for the same reasons previously set forth. I instruct you not to answer.

MR. WALDMAN: That is attorney-client privilege?

MR. BIZAR: And husband and wife

privilege.

Q Now, thereafter, was there a Bangor Punta offer to shareholders, Piper shareholders?

A Yes.

Q And was there a registration statement or prospectus in connection with that offer?

A Yes.

Q Did you receive it?

A I think so.

Q Did you accept the Bangor Punta offer?

A I did not.

Q Why not?

(Question was read.)

MR. BIZAR: I object to the form of that question. Instruct the witness not to answer.

MR. WALDMAN: I point out, Mr. Bizar, that not five minutes ago, a question was asked on Chris-Craft's offer in precisely the same words without objection.

MR. BIZAR: I don't think it was asked the same way. I said I object to the form of the question. I didn't say the area was foreclosed from your inquiry.

Q What was the basis for which you rejected the

Bangor Punta offer?

A I never rejected it. I never accepted it. Why should I accept it? Why should I reject it?

Q Why did you not accept it?

A Why did I not accept it?

MR. BIZAR: I'll make the same objection as to form. This time I'll permit you to answer. Otherwise, we will be here all day.

MR. WALDMAN: I withdraw that.

Q What was the basis on which you did not accept the Bangor Punta offer?

A In my view, at that time Chris -- the Bangor Punta was a part of a scheme by the other side of the Chris-Craft controversy and the figures kept going up. It appeared that Chris-Craft's offer, second offer, was better than the Chris-Craft first offer. That the Bangor Punta offer came in which I assumed was better than either of the Chris-Craft offers. And the Chris-Craft people raised their offer by a $10 cash proposition. Then suddenly Chris-Craft withdrew from the race.

It was a controversy between the two that up till the time Piper, up till the time that Chris-Craft withdrew from the race seemingly was getting closer to the balance that perhaps our management, Piper management, would not consider to be inadequate, in my then view, under my then theory. You must take these things in prospect not in retrospect.

Q Did you discuss whether or not to accept the Bangor Punta offer with anybody?

A Not that I recall. Except perhaps various offices of the various attorneys, to perhaps get some information, we were not unfriendly with any of the lawyers on the other side -- in the controversy. We had a lot of respect for all of them.

Q That was within the context of your speaking as a lawyer for your wife, is that correct?

MR. BIZAR: I don't know what that form is. You mean in what capacity he was speaking?

MR. WALDMAN: I withdraw the question.

Q In what capacity did you speak with these attorneys?

A No stated capacity. Call up, like I call you up. Hello, Roger, this is Dick Stull. Discuss the matter with you. That's all.

Q Did you discuss it with Chadbourne?

A I can't recall specifics. But if I did, there will be a memorandum which should be in the files of Milberg & Weiss. Unless I still have the memoranda, which is possible, I'll be very glad to look if you want me to.

Q Did you discuss it with anyone other than the counsel for the various parties?

A Not to my recollection. To the best of my recollection.

Q Did you consider consulting a broker?

MR. BIZAR: Same objection as before.

THE WITNESS: Shall I answer?

MR. BIZAR: I don't think you are entitled to inquire as to the operations of his mind, as to why or who, what he considered doing with respect to the Bangor Punta. You can ask him if he consulted with a broker but not whether he considered consulting with a broker.

Q I take it your previous answer covered that in that you stated you didn't talk to anyone other than counsel?

A You can assume that, I think that's a fair assumption.

Q Did you read any literature of any kind bearing on the value of the various offers in Piper?

A I don't think there was any literature. In fact, the present position is and has been that it was withheld.

Q What was the price of Piper at the time of the Bangor Punta offer?

A You mean the market price, don't you?

Q Yes.

A I think it must have been in the 70's. I'm saying that subject to verifying, which can easily be done.

Q Did you know that at the time?

A Sure, I did. Whatever the price was, I knew at the time.

Q Did you discuss with your wife the adequacy or inadequacy of the Bangor Punta offer?

MR. BIZAR: That only calls for a yes or no answer.

A Yes.

Q What was that discussion?

MR. BIZAR: Same objection as previously made. Same instruction.

MR. WALDMAN: Which is to say attorney-client, husband-wife?

MR. BIZAR: Right.

(Recess taken.)

Q Did you have an opinion as to the value of the

Bangor Punta offer?

MR. BIZAR: That only calls for a yes or no answer.

THE WITNESS: I can't answer that yes or no. Can I answer it otherwise?

MR. BIZAR: I'll object to the form but I'll let you answer it.

A I was completely confused and I considered the offers completely confusing.

Q What was confusing about the Bangor Punta offer?

A The package, the basis of it, the objectivity of it, was it a conspiracy to bail out the Piper people who had previously said that the offers of Chris-Craft were inadequate, the whole picture was a mass of confusion. Here you start with Piper telling us, telling me that Chris-Craft is inadequate. And then within days almost, they are dealing with Grumman and on the exact same basis. Well, not the exact same basis, but the exact same figure of $65.

Grumman pulls out and South Ply comes in and Florida Concrete comes in on the basis that needless -- you know as much about it as I do. Then they come out and the Bangor Punta comes in on a package deal. And then

Chris-Craft, who we thought at that time was, excuse my expression, the arch wrongdoer, persuaded as we were by the confusing statements of Piper management as to inadequacy, approving that which Bangor Punta is sliding in with. I say the whole thing was a bundle of confusion.

Q When you say, I believe you used the term "we" in your answer.

A I do that --

Q Who is we?

A I do that almost, I do that with almost everything.

MR. BIZAR: He means editorially we.

THE WITNESS: Yes, that is correct.

Q When you say we, you just mean Richard Stull?

A I'm speaking for myself really. Sometimes I correct myself, sometimes I don't.

Q Now, after the exchange offers closed --

A Which one?

Q Well, strike that.

A Talk about confusion.

Q Did there come a time when you changed your mind as to whether or not you should have accepted any of the offers?

A Yes, of course.

Q And what was your conclusion, when you changed your mind?

A My conclusion is that we have been had.

Q And that -- was your conclusion that you should have accepted one of the offers?

A Certainly. My conclusion was that, with my 50 shares of stock which I paid for and the 25 shares that I got as a bonus, meaning 75 shares, if I had known then what I learned later, I would have to have my head examined not to take the offer.

Q Which?

A Any offer of Chris-Craft was better than -- the last offer of Chris-Craft was worth, as we know today, probably $85 a share. I mean on the market, you know.

Q Now, did there ever come a time when you considered, after the exchange offers closed, both of them, selling your shares?

MR. BIZAR: I object to the form of the question. I instruct the witness not to answer. What he --

Q Did you ever try to sell your shares?

A If I -- the answer is no. As a matter of fact, your partner, Jim Ryan, called me about selling, about picking up my shares, and I said, "No, Jim, why should I?

Q So you have never considered --

A That's one of the conversations that I --

Q -- selling your shares.

Did you ever consider selling your shares?

MR. BIZAR: I object to the question. Instruct the witness not to answer.

MR. WALDMAN: Mr. Bizar, he just said something about "Why should I sell it?" Now, I'm trying to inquire as to why he did not consider it.

MR. BIZAR. No. You have misquoted him, Mr. Waldman. He asked Mr. Ryan, "Why should I sell it?" Kind of argumentatively or rhetorically conferring with Mr. Ryan.

Whether you are entitled to go into why he was thinking about not selling, I submit is an improper area. Operations of his mind are not relevant here. The fact is he didn't try to sell it. The fact is he didn't accept your partner's offer.

MR. WALDMAN: I don't think there's been testimony made, but we can argue about that some other time.

THE WITNESS: I think you should

confront that.

Q When did you come to the conclusion that you would have been better off to take the Chris-Craft offer?

A Well, I would say at least -- not at least, but I would say definitely when Judge Pollack's decision was handed down.

Q That was the factor that changed your mind?

A Well, I read the opinion.

Q And what was it in the opinion that changed your mind?

A The whole opinion. He reviewed the fact that, as I recall, hedefinitely reviewed the First Boston valuation of not only the second offer but the first offer which was, as I recall it, First Boston said was a fair value. It was a fair offer, 65. He reviewed the whole thing as I recall it. Now, if I'm wrong about that, it's a matter of record.

Q And the first time that you heard about the First Boston valuation was when you read Judge Pollack's opinion, is that correct?

A I wouldn't go so far as to say that. But it was certainly after Chris-Craft pulled out.

Q Well, how did you hear about it?

A I don't recall. I may -- I don't recall.

Q What other factors other than the opinion changed your mind?

A If you have a copy of the opinion, I'll be glad to go through it right now and point out to you the many, many things that the judge reviewed. He disagreed with Chris-Craft about, but nevertheless he commented upon and as I recall it, there was some part of his opinion that referred to the public stockholders of Piper.

Q Regardless of what was in Judge Pollack's opinion, what are the factors that today -- strike that.

What are the factors that made you change your mind?

MR. BIZAR: He's already testified that it was Judge Pollack's decision. You mean if there is anything else besides Judge Pollack's decision?

MR. WALDMAN: I'm trying to find the specifics of what it is that changed his mind. Now, Mr. Stull is a lawyer who was involved in a litigation at the time, and he is a sophisticated gentleman and he ought to be able to testify as to what factors changed his mind.

MR. BIZAR: I object to your characterizations of what Mr. Stull is. That we will have to leave for another forum. I submit to you he's already testified that it was Judge Pollack's decision.

Now, if you want to know what in Judge Pollack's decision it is that changed his mind, he's already attempted to say and he's suggested that you give him a copy of the opinion so that he can refresh his memory as to, if there were specifics in that opinion.

If you are asking him if there is anything else besides Judge Pollack's decision, well, then your question isn't framed that way.

Q Was there anything other than Judge Pollack's opinion?

A To the best of my recollection, it was the exposure of the deal by which the Piper management, the Piper people who told me that the Chris-Craft offer was inadequate, were to get some $80 a share come what may, which there was never -- it was not a public disclosure. There was the offer, the valuation by First Boston of $65 being a fair offer, which was not publicly disclosed. There was the Twin Comanche, was it? And Pocono, I believe, problems that were encountered by Piper of which no information was disclosed.

Q I see you referring to a document.

A I'm referring to Judge Owen's opinion.

MR. WALDMAN: I want that document marked.

THE WITNESS: Do you have any objection?

MR. BIZAR: No.

(Judge Owen's opinion marked Defendant Bangor Punta Exhibit C for identification, as of this date.)

THE WITNESS: Shall I go on?

MR. BIZAR: No, he's looking at the exhibit.

Q Whose handwriting is on Defendant's Exhibit C?

A You got an answer that's unfinished, you know.

Q I'm sorry. Complete your answer.

A Well, the only thing I was going to add, and you got me -- you have interrupted me now.

Q I broke your train --

A You interrupted my train of thought, but I do think that you should, that the Bangor & Aroostook Railroad which Bangor Punta carried on their books for some $18 million and which was sold for $5 million, the comments by the Court of Appeals and I think by Judge Pollack, yes, I'm pretty sure that Judge Pollack made comments on it, they were not disclosed to me at least until after, as I recall it, I had no knowledge of that until Judge Pollack had spoken.

I don't know if I have given you everything I would like to tell you about that. But you broke up my train of thought to be frank about it.

MR. WALDMAN: Read back Mr. Stull's complete answer. So that you, Mr. Stull, may pick up your train of thought. I apologize for having interrupted you.

(Record was read.)

Q Do you have anything to add?

A There is one more thing, as I recall it, that was added to the confusion, and that is the fact that the Bangor Punta had gone out and negotiated for stock and picked up stock in Piper during this, during this period, as I suppose the offer was made, proposal was made, to me by your law firm.

Q What stock are you talking about?

A The gun-jumping that Judge Pollack, either Judge Pollack, I think Judge Pollack commented on, and I'm sure the Court of Appeals commented upon.

Q All these things you found out for the first time when you read Judge Pollack's opinion?

A I can't go that far. I think Judge Pollack certainly crystallized my thinking that as a public stockholder of Piper, we had been deprived of an opportunity to get a fair offer for our stock.

Q But that is in any event when you decided that you had been deprived of a fair offer?

A Yes, it was shortly after that that we brought the Stull against Poole action, wasn't it? That's my recollection. Am I wrong?

Q I believe the record shows that Judge Pollack's opinion was in December and the Stull v. Poole was commenced in May of 1972.

A Well, that's about right.

Q In the notice of deposition that was served for this deposition, various documents were referred to. And they were requested to be produced. And I'm going to go through them and ask you whether they have been produced and if not, where they are.

MR. WALDMAN: Let's mark this.

(Document marked Defendant Bangor Punta Exhibit D for identification, as of this date.)

Q Referring to Defendant Bangor Punta's D for identification, and Schedule A thereof, have you produced the documents, have you brought to this examination documents listed under item 1?

MR. BIZAR: We have already accounted to you, Mr. Waldman, that we do not have in our present possession such documents and I tell you that we do not know whether we have such documents or whether they have in fact been turned over to the firm of Milberg & Weiss.

MR. WALDMAN: Let me ask you a question about that. Item 1 asks for all documents concerning all purchases of stock in or all tender and exchange offers to the shareholders of Piper Aircraft Corporation by Chris-Craft Industries or Bangor Punta Corporation or Grumman Aircraft.

MR. BIZAR: Are you looking at the same document I am which is the Webster Sheffield Bangor Punta --

MR. WALDMAN: No.

MR. BIZAR: I'm sorry.

MR. WALDMAN: No, I'm referring to the Chadbourne. Perhaps I should reask my question.

MR. BIZAR: Okay.

MR. WALDMAN: About whether the documents under item 1 of that Exhibit D have been brought to the examination.

MR. BIZAR: We, as previously indicated to you, Mr. Waldman, we have turned over files, legal files to the Milberg Weiss firm when they took over the representation of Mrs. Stull. We do not have except for the documents produced for you now, and perhaps some scattered other documents relative to any tender exchange offers by Piper Aircraft, Bangor Punta or Grumman Aircraft. We will continue to look and should we find any such documents, we will produce them. But as of today, we do not have such documents.

Q Mr. Stull, you received various documents such as registration statements, telegrams, letters to shareholders?

A Right.

Q As a Piper shareholder, did you not?

A Right.

Q And where, what -- where are they now?

A I would believe that they are with Milberg & Weiss, but if any that are remaining would be with Irving Bizar and if not, and if not, they would be with us. But

I know of none that were not turned over to Milberg & Weiss offhand.

MR. BIZAR: I have, if you wish to see them, copies of two telegrams. One appears to be an original telegram, and one appears to be a Xerox copy, sent by the Piper Aircraft management.

If these two documents fall within the description of item 1, we have not yet produced those. So I can do that right now.

MR. WALDMAN: Mark that.

(Two telegrams marked Defendant Bangor Punta Exhibits E and F for identification, as of this date.)

Q I show you Defendant's Exhibits E and F and ask you whether these came from a legal file in your office.

A Exhibit F comes from a legal file in my office -- well, I received this in, I received this as indicated on the exhibit. And it was filed, it has been filed or up to the time I gave it to Mr. Bizar, it was filed in a legal file in the office.

And Exhibit E, I'm not sure about that.

Q Well, you didn't -- you didn't bring it from your home, did you?

A I probably did. You see, this one that is a photostat, Exhibit F, I probably found home after, this is a recollection, Mr. Waldman. After I surrendered the files of Stull against Green and Stull against Poole to Milberg & Weiss. They may have the original of this telegram, Exhibit F. And this is probably one that I had in my home which I have since brought down to New York and given to him. Meaning Mr. Bizar.

And the first one, Exhibit E, I tell you the first one really is the second one in point of time. It's in May. I'm pretty sure that that was brought down from my home after the -- I don't think Milberg & Weiss even have this. They could have. But I don't think they have. I don't think they have either of them, come to think of it.

Q Is it fair to say that the other documents, well, to your recollection, is it fair to say that the other documents that you received you brought into your office and put into a legal file that was then transferred to the Milberg & Weiss firm?

A I don't recall. I gave them, I turned over to them our files in Stull against Green and Stull against Poole, and what the contents of those files are, they have and I should not be called upon to guess at files that are gone over a period of so many years and are voluminous, I -- it's not, it's not fair, it's a fair question that you ask, but I cannot answer it, as you would like me to.

Q To the extent that there are documents beyond E and F responsive to item 1, they are with Milberg & Weiss, is that correct?

A I'm not sure.

MR. BIZAR: We will continue to search specifically in Mr. Stull's house, but not in his office as --

THE WITNESS: If you would give me the name, the name or date of a specific document or some description of it, I will, I'll go to work on it. Give me the date of a letter. Give me the date of a document.

Q When you -- do you keep any investment files at home?

A Sure.

Q Do you have a file for Piper?

A No. I may have at one time but today, no.

Q Do you customarily have separate files for each of the stocks that you own?

A No. Annual reports and things like that, I save. And keep. But I keep them, I don't segregate them Piper from some other. I probably -- to the best of my recollection and belief, I put one on top of another as received. I probably keep them by date better than anything else. If I know something specific that you want to pin your, that you are -- if I know something specific by which I might know that you would like to show that I have knowledge of one or more of these things at an earlier time, I'll be glad to look. Or if you show me the document, I think you can assume that I received all the documents that were sent out to stockholders. There is no dispute about it from my point of view.

Q All I'm seeking now is to discover where they probably are now.

A I understand. I can't answer that.

Q Item 2. Have you brought any of them to the examination?

MR. BIZAR: We have already disclosed to you, Mr. Waldman, that there are no and were no communications with any shareholders of Piper, Chris-Craft, Bangor Punta or Grumman.

To the extent that there may have been a conversation which Mr. Stull had with an officer or director of Piper, to wit, either William

Piper, Sr. or William Piper, Jr., a memorandum of such presumably was prepared by Mr. Stull and is probably in the Milberg Weiss file.

A It -- I may have. I may have.

MR. BIZAR: We will look. I didn't see it. But we will look. We will look again. I know of no other conversations or communications with directors, officers or employees of Chris-Craft, Bangor Punta or Grumman, except, and I'm excluding therefrom conversations or communications with counsel from that description. There are and were obviously communications of counsel, Mr. Stull described one such with your partner, Mr. Ryan, and there well would be others. Most of those communications are in the Milberg Weiss file.

If there are other communications, we will try to gather them. I don't think there are. I don't remember seeing them.

Q Is that correct, you had no communications, conferences or discussions with any shareholders, directors, officers or employees of Piper, Chris-Craft, Bangor Punta Corporation or Grumman with respect to any actual or contemplated purchase or sale of Piper stock or with respect to any tender, exchange offer for Piper stock?

A To the best of my recollection, that -- I stand by my previous answer.

Q That, of course, excepts your wife?

MR. BIZAR: Of course.

A That's right.

Q Item 3. Are there any documents in your possession or have there ever been any documents in your possession concerning any valuation or analysis of the worth or market value of Piper, CCI, Bangor Punta Corporation or Grumman securities made from December 30, 1968 to date?

MR. BIZAR: There are no documents concerning valuation or analysis except to the extent that Mr. Stull at one time had, of which two copies we have produced today, of communications from the Piper management respecting valuations of the Chris-Craft offer, but absent that, Mr. Stull does not have any such documents other than, or at one time had the registration statement or prospectuses respecting exchange offers and to the extent that those tender offers or exchange offers contain valuations, those documents were the only documents he had regarding valuations.

MR. WALDMAN: Mr. Bizar, it seems to me that that was a question that really only Mr. Stull could answer rather than a statement of counsel as to what documents he had.

MR. BIZAR: All right. Mr. Stull will give you a statement.

THE WITNESS: Give me the question.

(Question was read.)

A I suppose you mean other than the literature disseminated by the Piper management or contained in one or more prospectuses, tender offers and so forth, is that what you mean? The answer is no.

Q Item 4.

MR. BIZAR: We have already covered that, Mr. Waldman, previously. To the extent that we have given scattered documents or have scattered documents, we have given those to you today, excluding therefrom the three previously described. All other such documents are in the possession of Milberg & Weiss.

Q Item 5.

MR. BIZAR: The only thing that we have of item 5 is a document which appears to be the brief of plaintiff-appellant Chris-Craft

Industries, Inc., as filed in the United States Court of Appeals and bears the number 74-2542. I will give you everything of that document except the last page which contains certain pencil interlineations, reflecting calculations and I suspect they represent Mr. Stull's work product or thought process and I would rather you not see that.

Other than that, that's what we have.

MR. WALDMAN: Off the record.

(Off-the-record discussion.)

MR. WALDMAN: We have discussed off the record the advisability of marking those documents that are being withheld on the grounds that they contain written notations that plaintiff's counsel asserts make them fall within the attorney-client privilege.

In lieu thereof, they will be kept segregated and available for ruling by the court.

MR. BIZAR: Right. You wish to mark the document we have?

MR. WALDMAN: No.

Q Item 6.

MR. BIZAR: We will produce no documents concerning the financial status of plaintiff and his wife, Lillian Stull, on the grounds that that information is proscribed under the circumstances of this case and we rely specifically upon the case of Sanderson against Quinner, decided in the United States Court of Appeals for the Tenth Circuit. The citation I can supply for you but not now.

MR. WALDMAN: Thank you.

MR. BIZAR: Mr. Stull has already described the stock holdings he had in Piper. I do not know if he has any stock holdings in Chris-Craft, Grumman or Bangor Punta and I object to his testifying to what stock holdings his wife has, if he knows.

Q Do you hold any stock in Bangor Punta Corporation?

MR. BIZAR: You can answer that.

A No.

Q Do you or have you ever held any stock in Grumman Corporation?

A I'm not sure. But if I did, it's a long time ago.

Q Do you now or have you ever held stock in Chris-Craft?

A Yes. But I think it is stock that I purchased very recently at the low prices. Long after this controversy.

Q How many shares of Chris-Craft do you own?

MR. BIZAR: I object to that and instruct you not to answer.

MR. WALDMAN: Grounds?

MR. BIZAR: It is irrelevant.

MR. WALDMAN: I suggest that his [illegible] holdings in a corporation that owns 44 per cent of one of the defendants might be very relevant.

Do you persist in your instruction?

MR. BIZAR: Certainly.

Q Does your wife now or has she ever held stock in Chris-Craft, Grumman or Bangor Punta?

MR. BIZAR: I object to that question. I instruct you not to answer it.

MR. WALDMAN: Could I have your grounds, please?

MR. BIZAR: At least attorney-client privilege and husband and wife privilege.

Q Item 7.

MR. BIZAR: So far as -- let me state, there are no documents concerning Mr. Stull's relationship with the firm of Demov, Morris, Levin & Shein. Relationship is one based on an oral retainer. Mr. Stull has no written relationship, as far as I know, no oral relationship with the firm of Milberg & Weiss so far as this litigation is concerned or any other.

And I don't know, I can't speak for what he has with respect to the firm of Stull & Stull. However, the firm of Stull & Stull has no relationship in this litigation.

Q There came a time when Stull & Stull withdrew from the case of Stull against Poole and Stull against Green, is that correct?

A Yes.

Q And --

A They were substituted.

Q Substituted. And what firm substituted for you?

A Milberg & Weiss.

Q At the time of the substitution, was there any agreement with respect to payment of outstanding disbursements?

MR. BIZAR: You mean agreement with Milberg & Weiss?

MR. WALDMAN: Correct.

A None whatsoever. Except that I suppose Milberg & Weiss are as experienced in this field, have knowledge of the fact that we had a case in our office for some four years.

Q Who, how did --

A I don't know --

Q Who in your office contacted Milberg & Weiss with respect to substitution?

A Probably Robert.

Q Well, did you?

A I don't think so. I know I've spoken with them. But you are asking who contacted them on the substitution.

Q Were there -- you participated in any conversations concerning the substitution?

A I don't recall any. I don't think there was any dispute about it.

Q Was there any agreement with, between Stull & Stull and Milberg & Weiss with respect to the substitution?

A None whatsoever. We signed a substitution, and it's on file in court. I presume it's on file in court. I presume it was filed by Milberg & Weiss.

Q What is the oral retainer agreement between you and the Demov firm with respect to this suit?

A I engaged Irving Bizar of that firm, who I've known for some years, to represent me in the suit on the usual basis that he would apply to the court for the allowance of reasonable counsel fees in the event of success and otherwise, it is contingent as are these cases. Mr. Bizar, being a very knowledgeable lawyer in this field, accepted the engagement. And has since acted for me in this case.

Q And what agreement, if any, is there with respect to disbursements and costs?

A Whatever he demands, I'll send him a check for.

Q Now, when was the Demov firm retained?

A Offhand, I would say shortly before the suit was commenced.

Q What were the circumstances that led you to institute a suit some six years, close to six years after 1969?

MR. BIZAR: I object to the form of the question. I'll permit you to answer.

THE WITNESS: I thought there was an objection.

MR. BIZAR: I permit you to answer.

THE WITNESS: I'm sorry.

A The suit that was instituted in my behalf was instituted after Judge Owen had denied a class action, which would have covered me as a holder of Piper shares. And I'm not sure, but it may have been after he also had denied without prejudice a motion -- no, I'll stick with that. I think the sequence would be more, would be accurate. And that's my best recollection.

Q And when was Judge Owen's opinion issued?

A About a year ago.

Q When was this suit commenced?

A Subsequent to that time.

Q And --

A It was subsequent to that opinion, because at that time, at that time we still represented Lillian Stull.

Q This action was commenced in August, is that correct?

A Of this year?

Q Yes.

A Of '75?

Q Yes.

A Okay.

Q And some four months ago.

A I don't hear you.

Q Some four months ago.

A Okay.

Q And you have testified that the Owen opinion was a year ago. If I suggested to you that Judge Owen's opinion was April of 1974 --

A April?

Q -- would you accept that?

A April of '74? Yes. If you say so. Yes.

MR. BIZAR: You have a copy of it before you, don't you, it was marked as an exhibit, wasn't it, wasn't it?

MR. WALDMAN: Off the record.

(Off-the-record discussion.)

THE WITNESS: Whatever the hiatus, I had to stew on it for a while and I didn't make up my mind overnight and I don't like to be a litigant. But it was the only possibility that I had to, in view of the denial of the class action, with the number of shares that I had, I had a mere, I have a small block of Piper shares. It is not on the board. At least I don't see it on any board. It's been delisted, on the New York Stock Exchange.

I think that it has the right to sell its shares, trade its shares on the Philadelphia, Baltimore and Washington Stock Exchange, but I have never seen any shares listed there. At least not for a long, long, long time.

And stewing on the shares that I hold, in which I have invested in, with hard cash, self-preservation is the first law of nature.

Q Was there any connection between your institution of this suit and the settlement negotiations in the suit Stull against Poole?

A I know of no settlement. What settlement negotiations were there in Stull against Poole that you are referring to?

Q Is it your testimony that you are aware of no settlement negotiations that ever occurred in the case Stull against Poole?

A Well, would you tell me what settlement negotiations you are talking about? Are you asking me when I stopped beating my wife? Is that the kind of a question you are asking? I don't think so. Tell me when was there settlement negotiations and by whom and between whom.

Q Your testimony is that you know of none, is that correct?

A I don't know what you are talking about.

Q You were an attorney, a member of the firm of Stull & Stull which was the attorney of record in a case entitled Stull against Poole, is that correct?

A Right. Up to the time of the substitution.

Q That's correct.

A All right.

Q And you are aware of no settlement negotiations or offers made subsequent to your substitution, is that correct?

MR. BIZAR: Do you mean by that, Mr. Waldman -- I can see that Mr. Stull may be confused, the question is susceptible of some confusion. Do you mean does he know the details of it or the fact that something like that may be hanging?

MR. WALDMAN: Let's start with the fact.

MR. BIZAR: That there may be settlement discussions going on.

MR. WALDMAN: There were.

MR. BIZAR: Or were there ever.

A I am not a party to them. I think what you are talking about, if anything, is some discussions that you, your firm or one or more firms represented by attorneys in this room have with Milberg & Weiss perhaps, I'm not a party to them.

Q Were you informed of the substance of those discussions?

A No. What do you mean by substance, that there were discussions taking place? Yes. But what the settlement is, I am absolutely uninterested, I have nothing to do with it. I am completely divorced from Stull against Green and Stull against Poole. Those are Lillian Stull's cases.

Q Do you know whether Lillian Stull was ever informed of a proposed settlement of Stull against Poole?

A I have asked Lillian Stull to exclude me from any discussions I am completely divorced and devoid of any knowledge,of by instructions of my counsel, by my own native sense of propriety, and I have nothing whatsoever to do with the -- I don't know what the status of her case is, and I'm keeping myself out. I have completely kept myself out.

Q When did you give that instruction?

A At the time of the -- at and about the time of the substitution since which time, I have nothing to do with that case. Nothing. And nothing you ask me is going to change that.

Q That's your testimony that you never spoke with anyone at Milberg & Weiss about the proposed settlement?

A I have asked Milberg & Weiss not to speak with me about it.

Q And when did you ask them to do that?

A I don't recall.

Q Was it when you were substituted?

A When and since.

Q And did they, have they never spoken to you about any proposed settlement?

A They may have tried. But I have refused to speak to them about it. If you ask Mr. Milberg, I'm sure he'll tell you the same thing. He can't say anything different.

MR. BIZAR: I think you have a pending question before we go on that, Mr. Waldman. I don't know if you got an answer. As to whether or not this suit has any connection or the bringing of this suit had any connection with the settlement discussions. I don't know if that question was answered or you withdrew it. But I didn't want the record to remain confused.

MR. WALDMAN: All right. I thought there was an answer. But let me repose it.

Q Is there any connection between the institution of this suit and the settlement negotiations in Stull against Poole?

A None whatsoever.

Q When did you determine to institute an action?

A If Mr. Bizar would kindly give me the date when I first spoke to him about it, I could try to fix a date for you. I would say, while he's looking, I would say it would be shortly before the action was brought. I think you asked that question before, Mr. Waldman, and I think I answered it that way.

MR. BIZAR: Sometime in the summer is my best recollection. Probably July or June.

MR. WALDMAN: You have records that would refresh your recollection which would permit you to refresh his recollection, I would assume.

MR. BIZAR: I have records which would not reflect the precise date Mr. Stull came to see me, but would at least give me a starting spot from which I would be able to say within that time he came to see me. And I don't have that here, but looking at, you know, some of the internal notes I made, and without waiving my right to refuse to produce them for you, my impression is it was sometime around June or July. Probably the beginning of July.

THE WITNESS: Maybe a little sooner.

MR. WALDMAN: Just to make it clear, I'm not asking for your records. What I'm asking for you to do is refresh the witness' recollection so that he can give a more definitive answer.

MR. BIZAR: If you leave a space, I don't have the records here, we will -- I will endeavor such reconstruction and suggest the date when he spoke with me or the approximate date when he spoke with me and see if that refreshes his recollection.

Q Now, how long before you came to Mr. Bizar, whenever that was, did you determine to bring an action?

A A matter of a few weeks, I would say.

Q Did you talk to any other lawyers before you spoke to Mr. Bizar?

A I don't recall. I don't recall.

Q You don't recall whether you spoke to any other lawyers about this lawsuit?

A I just don't recall. What about the lawsuit?

Q Whether they would be counsel.

A I don't recall.

Q Did you consider proceeding pro se?

A I don't recall. I may have. I may have spoken with Weinstein & Levinson about it. I don't recall for sure.

Q Did you consider Stull & Stull being counsel?

A In light of Judge Owen's opinion, in light of our getting out of the Stull against Green and Stull against Poole, in my opinion, turning to an attorney who is knowledgeable in the field, and who is outstanding in the field and which I did, was the appropriate thing to do.

(Recess taken.)

THE WITNESS: Mr. Waldman, on the question you were asking about it occurring to me to appear pro se, I think I should add the old adage that I don't think very much of a person who has himself for a lawyer, because of the old adage, as you know, he doesn't have a very smart one. I think the adage is that he has a fool for a client.

Q Directing your attention back to Schedule A of Exhibit D for identification, and item 8, have you brought any documents responsive to item 8 to this examination?

MR. BIZAR: We do not have such. I'm not even aware that Mr. Stull had any such documents. But if he does, those were among those turned over to Milberg & Weiss.

Q Mr. Stull, during the course of the last six years, have you --

A I don't recall.

Q Have you communicated with the Securities and Exchange Commission?

A I don't recall. I think so. I think so.

Q And any letters that you sent would be at Milberg, in the files that were turned over to Milberg & Weiss?

A I don't know. I think so.

Q Where else would they be?

A I don't know. In my office or Mr. Bizar's. It could be any one of three places.

MR. BIZAR: It is not in my office. So --

Q Did you have any communication with the New York Stock Exchange?

A I think so. I'm not sure.

Q And what about the Philadelphia and Boston?

A I don't think so, but I'm not sure.

MR. WALDMAN: Will you, Mr. Bizar, make an appropriate search for those documents?

MR. BIZAR: Yes.

THE WITNESS: I will try to help.

MR. WALDMAN: To avoid repetition, I assume you will make an appropriate search for all documents to which you have not objected so that we can know that either they are with Milberg & Weiss' firm or no longer exist or never existed?

MR. BIZAR: Right.

Q Item 9.

MR. BIZAR: We will not produce any documents, if any exist, concerning any written or oral communications between plaintiff and his wife relating either to the instant action or the other Stull actions.

Q Are there any such documents, Mr. Stull?

THE WITNESS: Can I answer that?

MR. BIZAR: I think you can answer just

yes or no.

A Well, I can't answer it yes or no. There are none with respect to the instant action and with respect to Stull against Green, I don't know of any, or Stull against Poole, I don't know of any. I don't know of any with respect to the other two.

Q Item 10.

MR. BIZAR: I think item 10 is repetitious of prior items. We have already discussed that.

A I don't think there are any.

MR. BIZAR: Plaintiff has had no communications with any other shareholder, except his wife, of course, and counsel, with whom there have been such communications and has described communications which he has had.

Q Item 11.

A 11 would be found in the Milberg Weiss files.

Q Item 12, are there any such documents?

MR. BIZAR: No.

Q Mr. Stull? Are there any documents responsive to item 12?

A Not in my possession or control, none that I know of.

Q Item 13.

A There are none. You are asking here whether we made any inquiry from or of a broker or dealer or those people that you enumerated with respect to the valuation or worth or purchase or advisability of a purchase or the advisability of a sale of Piper shares, is that right?

Q I would adopt that. That would have been my next question. Did you?

A No, I already answered the question that I didn't. So there wouldn't be any documents.

Q And did you receive any documents from --

A No. What do you mean --

Q From brokers, dealers.

A No.

Q Or the other persons enumerated in item 13.

A I bought 50 shares of stock. I got a dividend of 25 shares of stock, period. Piper was a great company. It was. It was a great company.

MR. BIZAR: May I suggest this is a good a stopping spot as any.

MR. WALDMAN: Before we go off the record, the deposition is adjourned to January 27th; that date is subject to confirmation which in turn will depend on the lawyers here gathered checking their calendars and also subject to being able to get unresolved issues here before the magistrate prior to then.

(Time noted: 4:00 p.m.)

____

Subscribed and sworn to before me

this_____day of_____________1976.

____

CERTIFICATE

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

I, FRED LORBER, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That RICHARD J. STULL, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of Jan 1976.

Fred Lorber

FRED LORBER, C.S.R.

CA145

Deposition of Richard J. Stull

December 16, 1975

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* * * * *

CA146

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

---x

RICHARD J. STULL, :

Plaintiff, :

-against- :

NICHOLAS H. BAYARD, PAUL L. MILLER, :
HOWARD PIPER, THOMAS F. PIPER and
WILLIAM T. PIPER, JR., individually :
and as Executors of the Estate of
WILLIAM T. PIPER, Deceased, :
NICHOLAS M. SALGO, DAVID W. WALLACE,
BANGOR PUNTA CORPORATION, THE FIRST :
BOSTON CORPORATION and PIPER AIRCRAFT CORPORATION, :
:

Defendants.

---x

Continued deposition of plaintiff RICHARD J. STULL, taken by defendants, pursuant to notice dated October 9, 1975, and October 10, 1975, at the offices of Messrs. Webster & Sheffield, One Rockefeller Plaza, New York, New York, on July 27, 1976, at 9:30 a.m., before Kathleen Russell, a Notary Public of the State of New York.

APPEARANCES:

Messrs. DEMOV, MORRIS, LEVIN & SHEIN
Attorneys for plaintiff
40 West 57th Street
New York, New York 10019
BY: IRVING BIZAR, ESQ.,
Of Counsel

Messrs. WEBSTER & SHEFFIELD
Attorneys for defendant Bangor Punta Corp.
One Rockefeller Plaza
New York, New York 10020
BY: ROGER L. WALDMAN, ESQ.,
Of Counsel

Messrs. SULLIVAN & CROMWELL
Attorneys for defendant The First Boston Corp.
48 Wall Street
New Yokr, New York 10005
BY: CHARLES W. SULLIVAN, ESQ,
Of Counsel

Messrs. CHADBOURNE, PARK, WHITESIDE & WOLF
Attorneys for defendants William T. Piper, Jr.
and Thomas F. Piper
30 Rockefeller Plaza
New York, New York 10020
BY: MARCIA CARPENI, ESQ.,
Of Counsel

* * *

RICHARD J. STULL, plaintiff, recalled as a witness by the defendants, having been previously sworn, resumed the stand and testified as follows:

EXAMINATION (Cont'd) BY MR. WALDMAN:

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MR. WALDMAN: You are still under oath, MR. Stull.

Q During the last session you mentioned several factors that you testified changed in your mind as to whether you should have taken the Chris-Craft offer. When you found them out and the first of those what you characterized as "The deal by which the Piper Management were to get some 80 dollars a share, come what may." Let me give you the exact quote on that from page 63 of the transcript. "The deal by which the Piper Management, the Piper people, who told me Chris-Craft's offer was inadequate were to get some $80 a share, come what may, which there was never, it was not a public disclosure."

A I recall something to that effect.

Q What was the significance of that disclosure in terms of your evaluation of whether you should have taken the Chris-Craft offer?

A Well, had I known that the Piper family, the Piper Management, principals had accepted or agreed upon an $80,000 -- an $80 figure for the evaluation of their own shares, and they were in the company for, since its inception this company was founded by Piper Senior, was a private company, it agreed to be a public company. If I knew that was the value they placed on their shares, actually, that would be a pretty good idea of what the value of mine would be. Also, it would be revealing as to their original statements, original advice, not to accept the Chris-Craft offer, which they said was inadequate.

Q In a second factor, here I am referring to some testimony page 65, was the so-called gun jumping, and here I am quoting again, "That is the fact that the Bangor Punta had gone out and negotiated for stock and picked up stock in Piper during this period."

Then I think you go on to talk about Judge Pollack mentioning the gun jumping.

A What do you want to ask me about what I am looking at now?

Q What is it that you are talking about there?

A To the best of my recollection I haven't reviewed the file at all since I have been previously examined. I don't remember what I undertook to look up either, however, to the best of my recollection Bangor Punta had, during the period before the effective date of its own registration offer, this is my recollection, acquired or was charged with having acquired two or three blocks of Piper shares. I think that's what was referred to in the opinion of Judge Pollack. I think this was the charge that Chris-Craft had made and I am pretty sure that it was before the effective date of their own registration.

Q What difference would that have made in your evaluation as to whether or not to take the Chris-Craft offer?

A There was a controversy issue now and as part of this controversy between the two antagonists or protagonists, Chris-Craft was trying to get shares as we later learned legally. If Bangor Punta was charged with having, with trying to acquire shares illegally. What is the whole purpose of the rules of the SEC? The whole purpose of it is for stockholders, whether they be lawyers or whether they be doctors or whether they be Judges, if they are stockholders they have a right to be informed according to the rules and the purpose of that is to inform judgment, is to decide whether or not you want to accept one offer or another. Here, Chris-Craft is languishing by the wayside and Bangor Punta is forging ahead with many many shares and the origin of those shares apparently was in some illegal or violation of either Section five or one of the sections or one of the rules, based upon Section Five of the Securities and Exchange Commission. Does that answer your question?

Q If you had known they had these shares, that would have made a difference to you?

A If I had known they had those shares by illegal -- withdraw that word illegal, I don't like it. By violating the law, if I knew that I would have dumped my shares, I could have dumped my shares. I would have reached informed judgment that I was entitled to, that I was deprived of making. Whatever I would have done I would have done with information that I was entitled to by law.

Q A third factor that you mentioned was the Bangor Aroostock Railroad and here I believe the quote is, "The Bangor and Aroostock Railroad which Bangor Punta carried on their books for some 18 million and which was sold for five million as I recall it, I had no knowledge of that until Judge Pollack had spoken." I am reading from the bottom of page 64.

A Had I known that I very well could have believed that the Chris-Craft offer was a far better offer than Bangor Punta's exchange offer. I would be getting Bangor Punta's stock that was valued on their books, based upon the evaluation of which was based upon financials that disclosed a value of the Bangor Aroostock stock that it carried some 18 million dollars, if I recall it.

Correct me if I am wrong.

Where did they get, how would they have the audacity to claim that the Piper offer was inadequate when they knew at that time that their financials were the evaluation of the stock of Bangor Aroostock, which they themselves felt was out of the ball park. I think they sold it for some five million dollars.

MR. WALDMAN: Can I take a one minute break here?

(Recess taken.)

Q What did that have to do with whether you were better off taking the Chris-Craft offer or keeping your Piper stock, which is what you did?

MR. BIZAR: I object to the form of the question and instruct the witness not to answer.

Q Mr. Stull, in your last answer you described how the -- read the last question and answer back, please.

(Read question and answer.)

Q Did that disclosure effect your thinking as to the relative merits of taking the Chris-Craft stock as against keeping the Piper stock?

MR. BIZAR: Wait a minute, may I hear that question again?

(Read question.)

A Would you put a date on that, Mr. Waldman, because I think the question is ambiguous. It now becomes more the nature of a speculation on a belated disclosure as to whether it affects that.

Q When did you learn about Bangor Aroostock?

A I think it was the opinion of Judge Pollack.

Q In any case, you did not know about it contemporaneous with the offer?

A No, nobody did. I mean no one of the public stockholders did, I don't think. Did they? I see Chuck smiling.

Q What was the significance of the Bangor Aroostock evaluation in terms of your thinking as to whether you would have been better off taking Chris-Craft as against keeping Piper stock?

MR. BIZAR: I object to that, because the witness has already testified that had he known of it at the time he would have believed that the Chris-Craft offer, might have believed that the Chris-Craft offer was better.

MR. WALDMAN: Better than Bangor Punta?

MR. BIZAR: Yes.

MR. WALDMAN: I am asking about Piper now.

MR. BIZAR: May I hear that question again?

(Read question.)

A I don't understand the question.

MR. BIZAR: I don't either. My objection stands. Maybe you can rephrase it to get to the point.

Q What difference did it make whether Bangor Punta was worth more or less than the Chris-Craft offer in terms of your keeping your Piper stock?

A It was a bundle of confusion. No one knew which way to move. One was bidding against the other, presumably legitimate bidding. Chris-Craft offered a sweetner after the second tender offer. Bangor Punta, comes out with an exchange offer, presumably a few points at least a few points, better than the Chris-Craft offer. I don't think there was ever any announcement even that Chris-Craft had withdrawn from the race. I don't think so. I think that was brought out in Judge Pollack's opinion, too, but correct me if I am wrong. Am I responsive to you?

Q Mr. Stull, you believed that your Piper stock was worth more than either the Chris-Craft offer or the Bangor Punta offer, did you not?

MR. BIZAR: I object to the form of the question, and instruct the witness not to answer, argumentative.

MR. WALDMAN: This is not direct examination, it's not argumentative.

MR. BIZAR: If you restate your question --

Q Did you believe that your Piper stock was worth more than either offer?

A Well, let's put it this way, the stock was selling on the stock exchange governed by supply and demand. The question is what would bring, the stock was going up and if you want me to get my exact thinking as I recall it at that time, it was that it could bring more, at least worth more, this is a question of judgment. You read the quotations in the stock market, you see what offer is being made, there's a contact going on and you get what you think at least is an informed feel that the stock is going to bring more. In that vein, in that sense, the answer is yes. Don't forget, I know nothing about the aircraft industry, except I ride airplanes, as does everybody in the room. Only the public statements on Piper were available to me, plus the tender offer of Chris-Craft, the exchange offer of Bangor Punta.

Q What difference would the disclosure of a different evaluation for the Bangor Aroostook Railroad make in your feeling that your Piper stock would bring more than either offer?

MR. BIZAR: Which disclosure, any one of the disclosures, all three of them or Bangor Aroostook specifiically?

MR. WALDMAN: I only refer to the Bangor Aroostook.

A If I knew the Bangor Punta offer was questionable I would have grabbed the Chris-Craft offer and thank my lucky stars that I was able to get it at the late date that it was available, which was sometime I think in August of '69. Do I answer your question, Mr. Waldman?

MR. WALDMAN: Would you read the

question and answer back?

(Read question and answer.)

THE WITNESS: Can we go off the record a second?

MR. WALDMAN: Sure.

(Discussion off the record.)

MR. WALDMAN: Back on the record.

Q I believe the answer is not responsive, Mr. Stull, would you read the question again?

(Read question.)

Q Do you wish to add anything to that answer?

A I better read the question, if it's not responsive let me make it responsive.

MR. BIZAR: I believe it is responsive. I don't think he has to add anything, but you may read the question and answer again anyway. If the witness wishes to add anything, that's his perrogative.

(Read question and answer.)

A Let the answer stand.

MR. WALDMAN: Would you mark this please?

(The prospective marked Exhibit D for identification, as of this date.)

Q I show you Defendants' Exhibit G and ask you to read the carry-over paragraph on page four.

MR. BIZAR: Would you identify what Defendants' Exhibit G is?

MR. WALDMAN: It's a prospectus, exchange offer to hold common stock of Piper Aircraft Corporation, Bangor Punta Corporation and the date of the prospectus is July 18, 1969.

Q First of all, did you ever read a copy of such prospectus?

A I can't recall it. I don't recall it, possibly I did or probably. I don't know what to answer you. If this was sent to stockholders, then I received it. To what extent I studied it or read it, I cannot answer you. If you got something specific on the page that you want to direct my attention to, that's different.

Q I direct your attention to the carry-over paragraph at the bottom of page four.

A Okay.

MR. BIZAR: The carry-over which reads, that starts "in the event that Bangor Punta succeeds," right?

MR. WALDMAN: Correct.

A I have read it.

Q Mr. Stull, does that refresh your recollection as to whether you knew at the time the exchange offer was outstanding, whether the Piper Management was going to get $80 a share, come what may?

A I don't really understand your question.

Q That paragraph states that the Piper Management is to get $80 a share, come what may, does it not?

MR. BIZAR: I object to the question. The paragraph speaks for itself. What it means is another story that's for someone else to interpret not Mr. Stull. I instruct you not to answer.

Q Mr. Stull, if you had read this paragraph you would have known about the $80 a share to the Piper Management, would you not?

MR. BIZAR: Excuse me, may I see that paragraph?

MR. WALDMAN: Sure.

MR. BIZAR: Same objection, same instruction.

Q Did you read that paragraph, Mr. Stull, before you determined what to do about the outstanding offers?

A I don't recall it specifically. Furthermore

I don't recall having ever seen it.

MR. WALDMAN: Read that last answer, please.

(Read answer.)

Q Is your testimony that you recall that you did not read this paragraph?

A My testimony is what I just said.

Q I don't understand whether you are saying you don't recall whether you read it or not or you recall that you didn't read it. That's all I am trying to elicit.

MR. BIZAR: There may be a pattent ambiguity in your question, Mr. Waldman, of whether you are asking of his non-recollection, if he recollects today not having read it then or he has no recollection today of having read it at an earlier time. I think that may be part of the confusion in the witness.

MR. WALDMAN: I'll try again.

Q Did you read this paragraph at the time in the exchange offers were outstanding?

A I don't recall.

Q Is there any information that you learned later with respect to your testimony on page 63, "the deal by which the Piper Management, the Piper people, who told me that the Chris-Craft offer was inadequate were to get $80 a share, come what may?" The question is withdrawn.

I direct your attention to the third paragraph on page five of Exhibit G and ask you to read that.

MR. BIZAR: Are you speaking of the paragraph which starts "As of the date"?

MR. WALDMAN: Yes.

A I have read it.

Q Does that refresh your recollection as to whether you knew when the exchange offer was outstanding that Bangor Punta had bought some blocks of shares prior to the effective date of its exchange offer?

MR. BIZAR: I object to the question on the grounds that the witness has not testified that he had no recollection whether or not Bangor Punta had purchased blocks of stock before the exchange offer. What the witness did testify was that he had not known that such purchases were in violation of law. The third paragraph on page five contains no reference to whether those private purchases were or were not a violation of the law.

Q I read from page 65, "There is one more thing as I recall that was added to the confusion, that is the fact that the Bangor Punta had gone out and negotiated for stock and picked up stock in Piper during this period, as I suppose the offer was made, proposal was made, to me, by your law firm.

Question, What stock are you talking about?

Answer, The gun jumping that Judge Pollack commented on."

Is your testimony that the only thing you didn't know was that these shares were purchased illegally?

MR. BIZAR: I object. That's again a mischaracterization of what the witness said. He said he didn't know the shares were purchased in violation of the law.

Q Is it your testimony that you knew that the shares were purchased, but you didn't know they were purchased in violation of the law?

A Your question is a very difficult one for me to answer at this late date, but as Mr. Bizar has pointed out, there is nothing in that statement there, if I had read it and if I had my mind on the legality or illegality or violation or non-violation of law, there would be nothing in that that alerted me to that. I see nothing there and I don't recall that paragraph either at this time. I don't know if I skimmed it, if I read it at all, I just don't recall at this late date a thing like that. There's nothing in that paragraph that you asked me to read that impairs the decision of Judge Pollack in any way, shape or manner.

Q Mr. Stull, I ask you to read the carry-over paragraph on page five on Exhibit G.

MR. BIZAR: So that the record is clear, you are talking about the paragraph that starts on, "On May 26, 1969 Bangor Punta and Piper"?

MR. WALDMAN: Yes.

A I have read it.

Q Mr. Stull, does that paragraph give you any information with respect to SEC litigation and a consent to creed?

A I think the paragraph speaks for itself.

Q If you had read that paragraph would that have informed you about the gun jumping, that there had been some illegal purchases?

A I don't recall whether I read that paragraph, whether I skimmed it, scanned it or whether I just -- I just don't recall at this time.

Q Read it today, as a lawyer, which you are, does that give an indication that there had been some purchases that were alleged to be illegal?

MR. BIZAR: I object to the form of the question, and instruct you not to answer. The paragraph speaks for itself. People can read that and get different interpretations. It speaks nothing of illegal purchases, as a matter of fact, there is a complaint filed in which both sides neither admit nor deny that such things took place and agreed not to violate any security laws. I fail to see how that gives any information.

Q Mr. Bizar, did you play any part in that litigation?

MR. BIZAR: Who?

A Pardon me, Mr. Stull, did you play any part in the SEC suit?

A Not that I recall.

I don't think we had an appearance in there.

MR.WALDMAN: Mark this please.

(Whereupon an affidavit of

Richard J. Stull dated January 8, 1970 was received and marked as Exhibit H for identification, as of this date.)

Q Mr. Stull, I direct your attention to paragraph 15, the first sentence, in this Defendants' Exhibit H, that is an affidavit of Richard J. Stull, dated January 8, 1970, in an actioncalled Lillian Stull plaintiff versus Norman J. Green, et al. The first sentence, which is short, I will show you after I have read it, "My firm has studied the release of Piper and Grumman, Exhibit D annexed. Many Piper letters to shareholders we have investigated the SEC records and proceedings it brought and joined in and the actions of the New York Stock Exchange."

Looking at that paragraph, does that refresh your recollection as to whether you participated inthe SEC proceeding?

A No, in the first place I don't know what proceedings you are referring to. Secondly, I would assume that it was proceedings prior to the date that this affidavit was made. I really don't recall this too well.

Q Mr. Stull, studying the affidavit, is it yours? Tell me what SEC proceeding you are referring to in that affidavit.

A What paragraph did you refer me to?

Q Paragraph 15.

A Well, paragraph 15 now refers to a controversy between the plaintiff and particularlly Grumman Aircraft and that's what we were talking about in this affidavit. Now, tell me again what is it you want me to tell you?

Q What is the SEC proceeding referred to in paragraph 15, in which you say you were amicus?

A I don't recall. I just don't recall. I think I would be guessing, I think though that we offered to appear as amicus. Wasn't that in the Court of appeals? I don't recall it. You will have to refresh my recollection.

Q I cannot, Mr. Stull, because it is your affidavit.

A No, you can, because presumably before you asked this questinn you have referred to some papers which we did appear amicus. Produce those papers and I will answer your question. You will have to refresh my recollection. Six years have gone by. You better refresh my recollection. I am not going to testify as to things like this. You are taking an affidavit in the first place that was prepared in a controversy with Grumman.

MR. WALDMAN: Mark this please.

(Whereupon an amended and supplemental complaint for counter-class which was sworn to May 13, 1970, was received and marked as Defendants' Exhibit I for identification, as of this date.)

MR. WALDMAN: Mark this please.

(Whereupon an amended and supplemental complaint dated May 29, 1969, was received and marked as Defendants' Exhibit J for identification, as of this date.)

Q Mr. Stull, I am going to show you Defendants' Exhibit J for identification, which is a --

MR. BIZAR: What happened to I?

MR. WALDMAN: I misnumbered them.

Q -- which is an amended and supplemental complaint in an action entitled Stull plaintiff against Norman J. Green, et al, which was sworn to the 29th day of May, 1969, by Lillian Stull, and signed by Stull & Stull attorneys for plaintiff. In this case it appears to be Robert Stull and I direct your attention to the third count and particularly to paragraph 30A, which refers to the Chris-Craft offer and I don't want to mislead you, the relevant date here is May 28, 1969. That's when it was sworn to.

A What's your question?

Q That paragraph reflects your then current, your then thinking that the Chris-Craft offer was inadequate, is that correct?

A I think that's a fair statement.

Q I will show you Defendants' Exhibit I for identification, which is an amended and supplemental complaint for the counter-class action, which is sworn to the 13th day of May, 1970, in the same action. This one is signed by Richard Stull and I direct you to the third count and paragraph 41 and ask you to look at that.

A Isn't that the same?

Q Yes, it is.

A Substantially the same allegation you showed me a moment ago?

Q That also reflected your then current thinking, which is April of 1970, that the Chris-Craft offer was inadequate.

A I think it speaks for itself. I certainly am not going to answer differently than I did a moment ago.

Q A moment ago meaning that it did reflect your thinking in April of 1970 that the Chris-Craft offer was inadequate?

A Yes.

Q I direct your attention to paragraph 23 of the complaint and ask you to read the clause that states, "And in its financials it carried as assets shares of Bangor and Aroostook Railroad of a value of approximately 16 million, which Bangor Punta and the individual defendants well knew or should have known was grossly excessive and exaggerated and Bangor Punta since sold its said shares to Bangor and Aroostook Railroad for 16 million."

MR. BIZAR: Which exhibit is that?

MR. WALDMAN: I.

A Well, I haven't read it. You have read it to me and I recall it. What is your question?

Q I ask you if that reflects that fact that you knew at that time about the sale of the Bangor Punta and Aroostook Railroad for five million?

A I think that's self-evident. Whether this was before the Pollack decision or not I cannot recall now. If it was before the Pollack decision it only means -- what was the amount it was sold for? Five million or six million? This says six million. I just don't recall. Is this before the Pollack decision, this Exhibit?

Q Yes.

A Was it six million or five million?

Q Today I am asking the questions, Mr. Stull.

A I want answers. You want me to give you my best recollection? It may have been in weeks that word before the Pollack decision. I just don't recall at this late date.

Q I direct your attention to the clause preceding that paragraph which says, "Bangor Punta wrongfully omitted to disclose material facts among others that it was to pay a bonus or premium to individual defendants for their aid if Bangor Punta acquired more than 50 per cent of Piper shares."

A If that's what it says there, this appears to be a photostat, this is a complaint. It was made, it was verified on May 13, 1970. It's a whole year later.

Q Does that reflect your knowledge at the time?

A It reflected information that I had on which I predecated a complaint. Okay, my firm did and I did.

Q So that by that time in any event you knew about --

A This was long after the tender offer. Are you trying to discredit me? Because I have stated that I learned through the Pollack decision and say that I know of a complaint that's earlier than the Pollack decision, therefore, I learned it earlier? Does that mean I learned it at the time it was made, that the wrongful acts were carried on? Does it? Well, I didn't.

Q That paragraph indicates that you knew at that time. I am talking about May of 1970, about the deal between the Piper Management and Bangor Punta.

A It shows --

MR. BIZAR: I object to that question because I think you may have inadvertently misled the witness, Mr. Waldman. The complaint which is alleged on information and belief as to paragragraph 23, if you look at the introductory clause you can see that I think by suggesting to the witness that this is basically on knowledge rather than information or belief that you may be taking him down a path, which he may not at six years after the events recall precisely. I think the question should be more fairly phrased. Did he believe as opposed to his knowledge.

MR. WALDMAN: Let me ask it my way and he can say no.

Q Did you know at this point about the deal between the Piper Management and Bangor Punta?

A I think it speaks for itself. I think that you are both indulgent -- I think it speaks for itself and I think that I must have had the information sufficient to make the allegation or I wouldn't have made it. That was a year later.

MR. WALDMAN: Let's take a three or four minute break.

(Recess taken.)

MR. WALDMAN: In an off the record discussion we discussed the fact that Mr. Sullivan has to leave at 11:30. So as to not delay the examination, by consent of all counsel, I am going to break my examination in order to permit Mr. Sullivan to examine, after which I will resume.

We have also agreed, however, that we will continue in Mr. Sullivan's absence and he agrees to that.

EXAMINATION BY MR. SULLIVAN:

Q Mr. Stull, do you still own any Piper shares?

A Yes.

Q How many shares do you own now?

A Seventy-five, I think. Same size, yes, there's no market for them. The answer is yes.

Q Mr. Stull, whe did you first discuss the possibility that the Demov firm would represent you in a class action against these defendants with anybody?

A I don't recall, but I would imagine it was shortly before the action was instituted.

Q With whom in the Demov firm were those discussions?

A My present counsel, Mr. Bizar.

Q During the course of these discussions did you have any consideration of the questin of what percentage of any settlement or any judgment you would receive and what percentage the Demov firm would receive?

A No such --

MR. BIZAR: I object to the question. That assumes that the Demov firm is going to receive a percentage of any settlement or judgment and/or Mr. Stull would in his capacity I assume other than as a shareholder, be entitled to participate to receive a percentage. I think what you really mean, did he discuss with us, would he share in any fee arrangement that we have.

MR. SULLIVAN: Mr. Bizar, I stand on the question and I ask you, Mr. Stull, whether there were any discussions as to percentage of any judgment or any settlement that you would receive.

MR. BIZAR: I object to the question, but I will permit the witness to answer.

A No.

Q Did you discuss with Mr. Bizar what his fees would be in this action?

A I am a lawyer. I practice in this field. I know what the rule is, what the rules are. I know what the courts do.

Q I am asking you, Mr. Stull, whether --

A There were no discussions.

Q Whether you discussed it.

A There were no discussions. No occasion for a discussion. I am talking about a person who stands very high in the field.

Q Did you discuss with Mr. Bizar whether he would be paid on an hourly basis or on a contingency basis?

A I just answered the question, Mr. Sullivan. I said there were no such discussions. I also said Mr. Bizar is an experienced person, attorney, in this field, to your knowledge as well as mine.

Q Is it your testimony, Mr. Stull, that you have no understanding whatsoever as to Mr. Bizar's compensation in this action?

A If we are successful Mr. Bizar will be rewarded by the Court, I am sure.

Q In the event you are unsuccessful, will Mr. Bizar receive any compensation?

A No agreement to pay Mr. Bizar anything. It is contingent upon success and the Court will award the fee depending upon what success is achieved, by suit settlement, compromise or otherwise.

Q In the event you are successful, Mr. Stull, do you have any understanding with Mr. Bizar that you will share in any fee awarded by the Court?

A None whatsoever.

Q What is your understanding, Mr. Stull, with respect to disbursements?

A I will pay any disbursements just as quickly as Mr. Bizar demands.

Q Have you made any disbursements to date in this ligitation?

A I don't recall.

Q Mr. Stull, could you indicate for the record whether you have --

A If there were it was small.

Q State for the record whether Mr. Bizar has referred any matters to you in the past, to your firm?

A Not to my knowledge.

Q Have you ever referred any matters to Mr. Bizar's firm prior to this matter?

A Not to my recollection.

Q Do you have any writing with respect to --

A Fees?

Q Fees on this matter.

A None whatsoever.

Q In the event this action proceeds as an individual action, what do you claim as your total damages?

A I certainly would be entitled to the difference between what I could have gotten and what the current market value is, which is nebulous. I think the only people that are buying stock are you people.

Q When you say what you could have gotten, what do you believe you could have received?

A What do I claim?

Q Yes, what is your claim?

A The last Chris-Craft offer was stock worth in the opinion of your client, some $72 a share, plus a $10 cash sweetener that the Chris-Craft people offered, which would bring it up to somewhere above $80 a share, which is even higher than what the figures that Mr. Waldman showed when the affidavits were.

Q Your claim, Mr. Stull, in the event this proceeds as an individual action is that your damages are the difference between the Chris-Craft offer and the present market value of the stock, is that correct?

MR. BIZAR: I object to the form of the question, and instruct the witness not to answer argumentative. His testimony is whatever it is and you should not summarize it.

MR. SULLIVAN: Mr. Bizar, I think it is certainly relevant to determine what the damages are. This plaintiff claims in the action --

MR. BIZAR: He already testified to that, Mr. Sullivan. There is no need for you to summarize it each time.

MR. SULLIVAN: His testimony is not clear.

MR. BIZAR: I object to that. I believe his testimony is perfectly clear. The reporter can read it back to you if you need it.

Q Mr. Stull, is it true that your damages are the difference between the Chris-Craft offer and the present market value of the shares?

A (Witness nods affirmatively.)

Q The record doesn't get nods, could you answer?

A The answer is yes.

Q Mr. Waldman asked you during the previous deposition session what other class actions you have been involved in or representative actions since 1970. Do you recall that question?

A No.

Q At that time you indicated that there had been numerous actions and you couldn't recall all of them, but I wonder if you have had an opportunity since that time to review your files and determine what other actions you have appeared in or have been a plaintiff in?

A No, I have not reviewed my files and any actions I have appeared in or that my firm has appeared in are matters of public record.

Q Would you provide to us, Mr. Stull, a list of the actions in which you have appeared as counsel or as a plaintiff since 1970?

MR. BIZAR: No, we will not. We do not believe those questions are relevant to the issues of whether he is an adequate representative in this action. If he did make that representation we have reconsidered it and we will not do it.

Q Mr. Stull, have you been involved in an disciplinary proceeding?

A No.

Q Have you made any estimate of what the costs of disbursement of this litigation might be?

A No, how would I do that?

Q Mr. Stull, I am asking the questions. Mr. Stull, have you set any limit on the amount of disbursements?

A None whatsoever.

Q So, you would be willing to pay whatever disbursements, including costs of notice or anything of that sort?

A I am willing to litigate this case.

Q Mr. Stull, the question is, are you willing to pay any costs of notice on any disbursements?

A Whatever is necessary.

Q Have you performed any legal services in this action?

A I would say no.

Q I believe Mr. Waldman asked you, during our last session, whether you reviewed the complaint and you responded that you had.

A If you call that legal services, the answer is yes.

Q Subsequent to that, have you performed any legal services in this action?

A The answer is no, unless you tell me something about an affidavit or something I may have made, then I will have to change the answer again.

MR. BIZAR: Have you concluded your examination subject to any rulings that you will apply for, Mr. Sullivan?

MR. SULLIVAN: I would like to confer with Mr. Waldman and Ms. Carpeni for a moment.

(Discussion off the record.)

MR. SULLIVAN: Mr. Bizar, before I conclude I would like to ask Mr. Stull two questions concerning previous class actions, which you have indicated previously you will instruct him not to answer so that we will have a record which we can bring to the Magistrate upon which we can seek rulings.

Q Mr. Stull, could you identify for the record all class actions or other representative actions in which you have been involved, either as counsel, co-counsel, plaintiff, or consultant, since 1970?

MR. BIZAR: We object to this, Mr. Sullivan, for the reasons previously stated, although I think the record should reflect at the prior session Mr. Stull identified one action which he was a plaintiff. Beyond that we will refuse to answer and for the reasons previously set forth.

Q Could you indicate on the record all fees which you have received from class actions or other representative actions in which you have acted as counsel, plaintiff, co-counsel, or consultant?

MR. BIZAR: I object to the question for two reasons. First, the fees he has received as counsel are irrelevant as to any consideration to whether he is an inadequate representative of this action in view of the fact that he has said he has no understanding with respect to sharing of the fees and made no such agreement. Secondly, it assumes that he has in fact received fees for acting as a plaintiff. I think there's no evidence on the record of that at all. I dare say it's probably untrue he would receive fees acting as a plaintiff, in the one action he did and as a plaintiff. My client also tells me it is insulting.

Q Mr. Stull, --

MR. BIZAR: Now you are asking the third question, is that so, Mr. Sullivan?

Q In relation to the first two questions, during the last session with Mr. Waldman, you indicated that you would provide to us the complaint and fee application in the Enos case.

MR. BIZAR: I think you have misstated that. I said we would take it under advisement as to whether we would and I believe that after some consideration we have decided not to provide it to you.

MR. SULLIVAN: We'll review that and if we consider it appropriate we will bring it before the Magistrate.

MR. BIZAR: I should help you recall, Mr. Sullivan, in your search of the records you can look at page 11 of the transcript.

MR. SULLIVAN: In the event, Mr. Bizar, that the Magistrate rules in our favor on these questions, we would also ask Mr. Stull to provide identification of any other actions, other than those that have been identified in the transcript to date, in which his wife has been a plaintiff since 1970. I believe that two actions have been identified in the transcript.

MR. BIZAR: If you have a ruling

authorizing such inquiry and to the extent that information is available to us we will supply it to you.

MR. SULLIVAN: Mr. Bizar, I am prepared at this time to conclude my examination of Mr. Stull on the class action aspects of this action. In the event that we deem it appropriate to conduct a further examination of Mr. Stull relating to the merits of this action, I want you to understand that I am not in any sense relinquishing the right to conduct further examiation.

MR. BIZAR: We will take our respective positions, come that future time I am sure, Mr. Sullivan, so my silence should not indicate any agreement with your position or disagreement. I just want to move this thing forward.

BY MR. WALDMAN:

Q Now, during the --

MR. BIZAR: Can we go off the record for a minute?

(Discussion off the record.)

Q Mr. Stull, you were aware, were you not, that during and after the exchange offers there was a market in the Piper stock, were you not?

A Let me see now, yes, I think that's true. I don't know when they were delisted, but it was later, I am pretty sure.

Q Did you ever make an attempt to sell your shares over the market, that is, in the market?

A How could I make an attempt, Mr. Waldman. Either you sell them or you don't sell them. If you offer them for sale and there is a market, they got to be sold.

Q You could put a price --

A You mean the fixed price?

No, the answer is no.

Q Did you ever consider selling your shares?

A Always considered selling them, yes. The answer would be yes.

Q Did you ever consider selling them after the exchange offers closed?

A You would have to. We would have to both be on the same wave length as to when the offers closed and what my thoughts were at that time.

Q If I suggest to you the offers closed in the first week in August of 1969, did you ever consider selling your shares after that time?

A My answer would still be the same, yes, considered but offered them for sale. I considered in the terms of weighing in your own mind whether you want to hold on or what. It's a very difficult question to really evaluate an answer responsively.

Q What were the factors that induced you not to sell your shares in the market and I am talking now about August or September, 1969?

A To the best of my recollection there was no public announcement, at least I don't know of any, at least I don't think I read of any, where Chris-Craft was brought out of the picture. I don't think they gave any official notice to the stockholders of Piper that they were no longer interested in buying or selling or have you with Piper.

Now, I don't think that Bangor Punta gave any such information to the stockholders of Piper. At least, I repeat, I don't think that I had any knowledge of that fact or of the existence of such a possibility.

Q What would the significance of an announcement that they will withdraw from the purchasing have for you?

A Then we would have to make up our minds either we were going to sell to Bangor Punta or we were going to hold onto it in the presence or on the open market or we were going to hold onto it. You must bear in mind that in a conversation I had with Mr. Ryan of this firm, which I am positive he will bear out, he indicated a willingness to pay us more than the market price for the shares.

Q When was that?

A We turned him down.

Q Why?

A Pardon me?

Q Why did you turn him down?

A Why did we turn him down? Probably because I thought it would bring more -- probably because I thought that Chris-Craft would go higher, would fight on. You are talking about 1969 now. You are not talking about 1970.

Q You fix this conversation in 1969 with Mr. Ryan?

A I had more than one.

Q This particular conversation.

A Both. To the best of my recollection we had two, both along the same lines.

Q When was the first?

A I don't know, Mr. Waldman. I would suggest that it would probably be around August.

Q Do you have any record of such a conversation?

A I don't know. You see, I delivered my files, -- the record, if one was made, it was a telephone discussion, you know. I possibly could have made a record, but even so it would have been in the files that I turned over to Milberg & Weiss.

MR. WALDMAN: Mark this please.

(Whereupon a letter dated July 16, 1969 on the letterhead of James J. Rochlis and C. Leonard Gordon, was received and marked as Defendants' Exhibit K for identification, as of this date.)

Q I show you Defendants' Exhibit K for identification, which is a letter dated July 16, 1969 over the letterhead of James K. Rochlis and C. Leonard Gordon and ask you if you have ever seen that before?

A My answer would be that I probably saw this letter, but the date on which I saw it is something that I cannot answer at this time.

Q Well, the critical question is did you receive it?

A Did I receive it?

Q Did you receive it and read it?

A I doubt it.

Q Prior to the close of the offers?

A I doubt it.

Q You don't doubt that you received it?

A I doubt that I received this letter on or about July the 16th, 1969, which is the date of it, which is the date of this exhibit and can we go off the record so I may consult counsel?

MR. WALDMAN: No.

MR. BIZAR: Do you have anything you want to consult me about? Have you finished with your answer?

MR. WALDMAN: I object to any consultation until he has completed his answer to this question.

MR. BIZAR: I will inquire whether he has completed the answer to the question.

A I am trying to think back on the amended complaint, one of the amended complaints, I am trying to recall wehther this is part of the information or belief. I just don't recall. I don't think I saw this letter at that time.

MR. BIZAR: Now do you wish to consult with me?

THE WITNESS: I was going to ask you --

MR. BIZAR: Off the record.

(Discussion off the record.)

(Luncheon recess taken at 11:50.)

AFTERNOON SESSION

(Time noted: 1:30 p.m.)

(Whereupon counsel, the witness, and the reporter appeared before Magistrate Schreiber for rulings.)

MR. WALDMAN: We are here pursuant to a scheduled conference to deal with objections that were made to questions asked during the deposition of the plaintiff and which the deponent was directed not to answer and what I propose to do, we have a transcript to go through them one at a time. I think there are 11 from the other day and several more today and just to get rulings on them.

THE MAGISTRATE: Has the deposition been completed under the rulings?

MR. WALDMAN: Not quite, but we will complete it I would say within an hour and I think we have covered all the areas on which there will be any objections.

THE MAGISTRATE: Do you have a transcript of the deposition?

MR. WALDMAN: Yes, your Honor.

THE MAGISTRATE: What page?

MR. WALDMAN: The first is on page 18, your Honor.

THE MAGISTRATE: What line?

MR. WALDMAN: The question is on line 23, your Honor. It would appear in context if you started reading from line nine going over to page 19, line four.

MR. BIZAR: So that your Honor knows, the context was in the case of Stull against Green, Lillian Stull.

THE MAGISTRATE: What's the relevancy, counsel? How do you get around the attorney-client privilege?

MR. WALDMAN: The relevancy is, your Honor, that his conversations with a person as to his opinion of a Chris-Craft offer would be relevant.

THE MAGISTRATE: You can ask him his opinion, but you cannot ask him his conversation when he was serving as counsel for persons to whom he spoke. Unless you can point out some waiver to me, that Mr. Stull was serving as counsel for the plaintiff at the time, the original plaintiff at the time, I assume you are asking him what he said to his client and what his client said to him.

MR. WALDMAN: Correct.

THE MAGISTRATE: You can ask him as to what his opinion is with regard to the particular matter as plaintiff, but you cannot ask him what opinion he gave to someone else when he was serving as counsel. Objection sustained. Next question.

The question on page 21 requesting whether there's any payment from Mr. Stull to Mrs. Stull in connection with the lawsuit?

MR. WALDMAN: Correct, your Honor.

THE MAGISTRATE: Mr. Bizar?

MR. BIZAR: I feel at the time the attorney-client privilege precludes.

THE MAGISTRATE: I agree, the attorney-client privilege does not run to the relationship of how the attorney was hired. It is not considered within the privilege.

MR. BIZAR: I also feel it is relevant within the issues.

THE MAGISTRATE: Many things are relevant and irrelevant in this case and kind of hard to figure out. Mr- Stull will be directed to answer what the arrangement was and whether any money passed. That's the total extent of the inquiry.

Page 23. When was Mrs. Stull's case finally ended in court?

MR. WALDMAN: I believe it was in November, your Honor.

THE MAGISTRATE: Any conversations with Mrs. Stull, any conversations between Mr. and Mrs. Stull after November no longer forward the attorney-client privilege.

MR. WALDMAN: That is correct. I think it is fair to say that this question was directed to a conversation that would have been held not prior to November.

THE MAGISTRATE: If it's prior to November it is still covered by th_ privilege.

Next question, page 24.

MR.BIZAR: Objection _sustained, I take it, your Honor?

THE MAGISTRATE: Yes. Twenty-four. Them's a long colloquy here.

MR. WALDMAN: Yes, your Honor, I am having trouble finding it myself.

THE MAGISTRATE: This is with regard to any drafts or complaints?

MR. BIZAR: Memoranda, particularly, is what they wanted.

THE MAGISTRATE: What's the relevancy?

MR. WALDMAN: Your Honor, for example, if he wrote that the Chris-Craft offer is a great offer or he thought it was a terrible offer. I cannot predict what the relevancy will be, because I don't know what was said, but there was at least one note on a document that was given to us in which he was indicating some thought about the anti-trust implications about a merger between Chris-Craft and Piper, which if he believed that is so, would preclude him from accepting any Chris-Craft offer. Now, I don't know what the notes are.

THE MAGISTRATE: Mr. Bizar.

MR. BIZAR: The process of notes, which Mr. Stull makes while he is preparing a complaint for his client and under rule 26 --

THE MAGISTRATE: Objection sustained. Page 27. This is a conversation that took place prior to intentions of counsel, any conversation before intention of cousnel will not be covered by the rules. If he remembers he may give testimony on it.

MR. BIZAR: All right.

THE MAGISTRATE: Page 29. The conversation at the time, what time counsel?

MR. WALDMAN : This is during the time when he was serving as counsel.

THE MAGISTRATE: No, I'll sustain the objection. Next one, counsel, page 38. Doesn't anybody know where the file is, Mr. Bizar?

MR. BIZAR: That's not the problem.

MR. WALDMAN: Actually it is line 23. Again it has to do with notes.

THE MAGISTRATE: My same ruling holds, the objection will be sustained. Page 50. If Mr. Stull did not speak to his broker for any specific reason then the basis of why he did not speak to his broker should be stated. That's all but the objection goes to the operation of his mind. That's one of the critical issues in this case.

MR. BIZAR: I don't know that it is

for purposes of the tender offer.

THE MAGISTRATE I will permit him to answer. You may preserve your objection to the time of trial if it becomes necessary. Page 51.

MR. WALDMAN: The same issue.

THE MAGISTRATE: That depends on when the conversation took place with the wife. If it took place during the time he was serving as counsel the objection is sustained. Any conversations as to the value, either before or after he was counsel will be permitted. Next question is on page 78.

MR. WALDMAN: No, 56, your Honor. So the record is clear, again the same issue, line 13.

THE MAGISTRATE: I assume if I miss one my consistency will be carried out by counsel.

MR. BIZAR: Lines 13 and 14.

THE MAGISTRATE: Same ruling on 56. Next one would be on page 78?

MR. WALDMAN: Your Honor, I missed one on 55, which is the same issue as on the last one, operation of the mind.

THE MAGISTRATE: Let me look at it just to make sure.

MR. WALDMAN: Line eight.

THE MAGISTRATE: Didn't you cover it? Did you speak to your broker and said no then he asked why in effect and he's going to answer that one and that would give you the answer.

MR. WALDMAN: It seems to be a resta ement.

THE MAGISTRATE: Okay, 78. Can I get to 78?

MR. WALDMAN: I have a note on 75.

THE MAGISTRATE: All right, I am just following your paper clips here.

MR. WALDMAN: Again, 75, line 23 carry-over has to do with documents.

THE MAGISTRATE: When were the interlineations made? Doesn't it determine whether or not they were a work product?

MR. BIZAR: They were made at a time when the Lillian Stull case was being handled by the firm of Stull & Stull and received a copy of the brief.

THE MAGISTRATE: If Mr. Stull so states then it will be covered by the objection and the objection is sustained.

MR. WALDMAN: Now we are on page 78.

THE MAGISTRATE: What is the relevancy of how much he owns at this time?

MR. WALDMAN: Of Chris-Craft?

THE MAGISTRATE: Yes.

MR. WALDMAN: I think that it goes to -- if he does own stock in the defendant or the corporation owns 44 per cent of the defendant it goes to whether he can, without a conflict of interest, represent the class.

MR. BIZAR: These shares and estate are purchased long after the present controversy.

THE MAGISTRATE: I seriously doubt if he owns a few shares or a few hundred shares if that is going to be putting him in a conflict of interest. I will let him answer. He may give an answer. He may develop your argument.

MR. WALDMAN: The same goes to the question about his wife's holdings.

THE MAGISTRATE: If he knows what his wife's holdings are he may answer. Next question.

MR. WALDMAN: We marked some questions from today.

THE MAGISTRATE: Then you will complete the examination after that. I just got a note that I have to be in Criminal Parts. Just continue with the examination and come back and I will be happy to take you at that time.

(Whereupon at 1:45 p.m. the deposition was resumed at the United States District Court.)

BY MR. WALDMAN:

MR. WALDMAN: Mr. Stull, I remind you you are still under oath.

THE WITNESS: Yes, I understand.

Q I show you Exhibit J for identification and I direct your attention to paragraph 53 and particularly that part which says, "That said Piper shares were unreasonably worth in excess of $100 a share."

A What's your question?

Q What was the basis for your view that stock was worth $100 a share?

A Number one, this was not my view. Number two, it was client's opinion that it would go to $100 a share easily with Chris-Craft and Bangor Punta bidding for the stock and the stock had gone from 54 to something like 80 a share, if my recollection is correct.

Q What was your view?

A My view was that it was a controversy between the two. My view, there was a controversy between the two suitors and the opinion of the plaintiff had merit.

Q You didn't disagree with that view?

A I did not disagree with that view.

Q Is it fair to say you shared plaintiff's view?

A Well, I don't remember exactly whether I had expressed any personal judgment at that time. The nature of that action, wasn't that Stull against Green?

Q Correct.

A Well, it was a derivative action, wasn't it, and as such the question really was whether or not the Piper people, the management, was acting in the best interests of Piper.

Q Mr. Stull, I didn't ask you what the suit was about. I asked you whether you shared plaintiff's view.

MR. BIZAR: I am going to object to the question because I believe he answered the question. It may not be an answer you like or it may not be something you can live with, but the fact is he answered the best he can.

Q What is the answer?

MR. BIZAR: He doesn't remember expressing any personal judgment about it. I don't want to summarize his answer. He said it in far more words than I, but essentially that's what his answer is.

Q Is there something you wish to add, Mr. Stull?

A No, except I point out to my counsel this is verified May 29, 1969.

Q What is the significance of that?

MR. BIZAR: I object to that as to what the significance is. He pointed out --

MR. SULLIVAN: Mr. Bizar, the

reporter isn't getting what you are saying.

MR. BIZAR: The date of the verification to date, the act speaks for itself. That's all I have to say. It may have no significance at all.

MR. WALDMAN: Are you directing the witness not to answer?

THE WITNESS: Yes, sir.

MR. BIZAR: I will withdraw my objection. The objection stands why you pointed out the date though.

A Because this is a date when Robert was still in the picture. The Piper people had advised their stockholders that the Chris-Craft tender offer was inadequate both by telegram, by letter and then within a short period thereafter they were negotiating with or selling or contracting to sell as the Court later pointed out, it was nothing, but an option but they were dickering. When I used that term with Grumman and for the identical same price for the identical number of shares it appeared that the Chris-Craft people and the Bangor Punta people, not the Bangor Punta people, I don't know whether they were even in it on May the 29th, but they were in it perhaps, but not to public knowledge. At any rate, the fact that the stock had been up as high as $54 a share and it had gone up -- what do you call it? Chris-Craft buying for Piper, the whole thing was such a bundle of confusion, terrible confusion. If you try to reflect, put yourself in the position of what a stockholder, who saw these things and read them, just an ordinary person without knowing what was really going on, a person would be terribly confused. That's why I point out this date.

Q As of the date of that complaint have you or did you have any view as to what it was worth?

A Only in the sense we knew what the stock market pricing had gone to. We had knowledge of their earnings. We had knowledge of their potential. It was a company that was one of the pioneers in the aircraft industry and it was a good company. It was a darn good company.

Q Mr. Stull, did you review this complaint?

MR. BIZAR: What is this complaint?

Q Exhibit J .

A When, before it was signed?

Q Before it was filed.

A I don't remember. I may have and I may not have. You have to refresh my recollection.

MR. BIZAR: Let the record show that it bears the signature of Robert A. Stull.

A Well, then, the chances are that I did not.

Q Mr. Stull, I would like you to look at page 22, the last session of your deposition, lines 14 and 19 and ask you if you wish to adhere your testimony.

A I said it was a policy to review all papers. That doesn't mean that I personally did.

Q Continue.

A I stand on my answer. I see no inconsistency between that answer and my present testimony whatsoever.

Q Did you discuss your wife's view of the worth of the shares with her?

MR. BIZAR: Let me hear that again.

(Read question.)

Q Prior to the filing of this complaint.

MR. BIZAR: This complaint being Exhibit J?

MR. WALDMAN: Correct.

MR. BIZAR: I object to it on the

grounds the attorney-client privilege and instruct him not to answer.

MS. CARPENI: Off the record.

(Discussion off the record.)

MR. WALDMAN: Mark this.

(Whereupon the document was received and marked as Defendants' Exhibit L for identification, as of this date.)

Q I show you Defendants' Exhibit L for identification, which is your affidavit dated May 29, 1969.

MR. BIZAR: In what case?

Q Stull against Green. It appears to be an affidavit filed in support of an application to file Defendants' Exhibit J. I ask you whether that in fact is an affidavit in support of an application to file Exhibit J?

Let the record show that I took the exhibit back from the depondent before he finished examining it and I will return it to him in a moment.

I am now handing the Exhibit back to the depondent.

Q Mr. Stull, all I asked you is whether it was an application in support of an affidavit in support of an application to file Exhibit J?

A I don't know. I am looking at it. I am trying to determine. We are going back six years, seven years.

Q Perhaps I can assist you by pointing out a few relevant portions.

A Perhaps you will let me finish it, I am almost finished, okay, Mr. Waldman go ahead.

MR. SULLIVAN: The question calls for a yes or no answer, Mr. Stull. Yes, it is?

A I don't remember.

Q The answer is you don't know?

A The answer is I don't remember your question.

Q Is Defendants' Exhibit L an affidavit filed in support of an application to file Exhibit J?

A I am not certain.

Q I direct your attention to paragraph two.

A I read it.

Q And particularly the phrase "this affidavit is made in support of an application filed and ammended and supplemented herein."

A I read it.

Q Does that refresh your recollection of whether it was filed in support to file a complaint?

A It is.

Q Do I understand that you are uncertain as to whether the complaint referred to is Exhibit J?

A That's right.

Q Would you look at the date?

A I did.

Q On Exhibit J?

A I did.

Q What date is that?

A July 3, 1969.

MR. BIZAR: That's the date of the summons.

Q Precisely. Would you look at the last page, which is the date it was sworn to. Tell me what that date is.

A May 29, 1969.

Q Would you tell me what the date is on your affidavit?

A May 29, 1969.

Q Cmparing those two dates, does it refresh your recollection or can you state now whether Exhibit L was filed in support of Exhibit J?

A In my opinion it is, but I still am not cetain. If you produce the original papers we wouldn't have to have any uncertainty about a thing as easy as that.

Q Mr. Stull, is this your signature?

A It is, it is a facsimile.

Q So you did sign Exhibit L?

A No question about that.

Q Exhibit L is the amended complaint by which Bangor Punta was added as a defendant, was it not?

A I think so.

Q I direct your attention in paragraph 15 and ask you if you can now state whether you read Exhibit L before it was filed?

MR. BIZAR: Paragraph 15 of the affidavit?

Q Of the affidavit, excuse me, I will restate that question and ask you to look at paragraph 15 of Exhibit L and ask you again whether, with the aid of that document, you can testify as to whether you read Exhibit J before it was filed?

A Can I have J? I don't see where paragraph 15 helps me at all.

Q You just testified that Exhibit J was the amended complaint by which Bangor Punta --

A I remember my testimony, Mr. Waldman, and I am not going to change my answer.

Q What was Exhibit D to the affidavit? You would have studied it before you filed the affidavit would you not?

A My best recollection is that I examined the proposed complaint that we sought to have amended, the proposed amendment that we sought to --

Q I am not talking about we, I am talking about you, Richard Stull.

A Me? I cannot recall, I am sorry. I have said that before and I say it again.

Q Would you file an affidavit without examining the complaint?

MR. BIZAR: I object to that question, that's kind of argumentative. He didn't say he didn't examine it. He said he didn't recall today.

Q Is your policy, when you file an affidavit in support of an application or amended complaint, to look at the complaint before you file?

MR. BIZAR: Policy today or policy then?

Q Policy today.

A Yes, of course.

Q Was it your policy then?

A Yes, of course.

Q You were familiar then with rule 11 of the federal rules of Court procedure?

A That's the rule where the attorney client vouches for accuracy of it? No argument.

MR. WALDMAN: Off the record.

(Discussion off the record.)

MR. WALDMAN: Mark all of these.

(Whereupon Exhibits M through O were marked for identification, as of this date.)

Q I show you Defendants' Exhibit M, N, and O for identification, which are respectively a complaint dated February 3, 1969; amended complaint dated March 12, 1969; and the second amended complaint dated April 7, 1969 and ask you if you recognize it?

A They appear to be pleadings prepared by our office.

Q Is Bangor Punta a defendant, named defendant in any of those pleadings?

A No, but they were still in the Grumman area.

Q Is Exhibit J the next complaint that was prepared in that action?

A Perhaps. I am not certain. I think so.

Q You were the counsel of record in this case, were you not?

A Yes, sir.

Q And just looking at those three complaints noting that Bangor Punta was not added as a defendant in any event, and that first one that Bangor Punta is a defendant is Exhibit J, does that refresh your recollection as to whether Defendants' Exhibit L is an application, is an affidavit in support of an application to file Exhibit J?

A I am not sure.

Q Are you aware of any intervening complaints between the date of Exhibit O and the date of Exhibit J?

A Not at this moment.

Q Do you have any idea what other complaint could be referred to in Exhibit L?

A I don't. Keeping up with the Piper people and other defendants was quite a problem and it didn't happen overnight.

Q You are not aware of any other complaint that affidavit could be referréng to, is that correct?

A I know there were a number of complaints in this action.

Q Are you aware of any that had not been marked in this deposition?

A No. I don't know. I am not sure. It looks to be that you covered it. You have got four of them.

Q And Exhibit I?

A What do you want me to identify? Exhibit I as being part of one of those papers?

Q I want you to identify Exhibit J as the complaint that is referred to in your affidavit L.

A I am not sure.

Q Could you tell us what gives rise to the uncertainty in your mind?

A That there are many complaints in this case. Keeping up with the machinations of these people was arduous.

Q You are aware of no other complaints than the ones in front of you?

A I testified to that, Mr. Waldman. Do you want me to accept something? If you want me to accept it that's one thing, but you are asking me whether or not something is accurate and I am not certain of it.

MR. BIZAR: Mr. Waldman, would you represent to us that Exhibit J was something you got as a copy of an Exhibit D referred to in the Stull affidavit which we have marked as Exhibit L? We will accept your representation.

MR. WALDMAN: I do not have it. One of the reasons, of course, is that your office did not turn over to us any court files.

MR. BIZAR: We didn't have a court file. We told you that was turned over to Milberg & Weiss. We turned over such papers that we had.

Q Mr. Stull, we are now going to go back to matters in which we had rulings. The first question is on page 21. Did you ever receive any payment from Mrs. Stull for them, the them referring to disbursements?

A No.

Q 27, I'll read. "Question, did you have any conversations with your wife about the offer prior to your retention of counsel?

MR. BIZAR: That calls for a yes or no answer.

Q I would say absolutely.

"Question, what did they say to you and what did you say to her?"

A Better read it to me again off the record.

(Discussion off the record.)

A I don't recall.

Q Do you recall the substance of your discussion?

A I really don't. You recall nothing about any conversation between you and your wife about the Chris-Craft offer?

A You are talking about the original offer?

Q That is correct?

A Let me put my mind on it for a second. I really cannot recall our conversations at that time. If you refresh me I will be very happy -- I am sure they are all subject to affidavits or statements or briefs or something.

Q I am now moving to page 50, which refers to the Chris-Craft exchange offer.

"Question, did you consider speaking to your broker about it?

Answer, no.

Question, why not?"

A You are speaking of my investment now in the Piper, are you not? I think you are speaking of my investment. Let me see that again. I had no occasion to speak to my broker about it.

Q I am now moving to page 78. How many shares of Chris-Craft do you own?

A Can you leave that answer blank and I will give you an accurate answer or if you want an answer right now I will have to give you an approximate answer.

Q Give me an approximate answer and you can change it if it is wrong.

A No, I wouldn't do that. I will either answer your question correctly or accept my answer approximately. If I am to look it up I will give you an accurate answer.

Q We will leave it blank and you can fill it in.

(Insert) ____________________________________

Q When did you purchase these shares?

A Same thing.

Q Approximately when did you purchase these shares?

A The Chris-Craft shares?

Q Yes.

A About a year ago.

Q Did you speak to anyone at Chris-Craft about purchasing your shares?

A No.

Q Did you speak to anyone at Paul Weiss about purchasing your shares?

A No.

Q Talk to anyone about purchasing your shares?

MR. BIZAR: You mean other than giving the order to buy the shares?

MR. WALDMAN: Correct.

A No.

Q Who did you buy those shares through, what brokerage?

A I am not sure.

Q Do you have a broker?

A Naturally.

Q Who's your broker?

A Probably was Bache & Company.

Q Who there at Bache & Company?

A William Alpern.

Q Does your wife now --

A I am not sure of that, you are taking my guess, my recollection now, when I offered you to look it up.

Q Of course you will have an opportunity to review the transcript and I assume at that point you will know or not?

Does your wife now or has she ever held stock in Chris-Craft or Bangor Punta?

A I don't know.

Q Do you have a joint bank account?

A My wife has --

MR. BIZAR: The answer is yes.

Q Do you also have separate bank accounts?

A Yes.

Q You don't know what's in her portfolio, is that correct?

A That's correct.

Q I direct your attention to the last sentence of the first paragraph of Exhibit L and last two sentences, did you advise your wife to make the investment in Piper?

A I think that's a fair statement. Actually we both knew of Piper and talked over Piper. We knew Piper for a long time. We talked over Piper, yes, I think that's a fair statement. I advised her investment in Piper.

Q Ever advise her with respect to any other investments?

A I don't recall. Really Piper is an old one now.

Q You don't recall whether you ever advised her with respect to any other investment?

A If you will refresh my memory as to any particular issue, any particular stock, I will be glad to give you an answer.

Q No, I have no particular one in mind, I am just asking if there are any?

A I have been married many years. I cannot answer that.

MR. WALDMAN: I have no further questions.

EXAMINATION BY MS. CARPENI:

Q Mr. Stull, how did you intend to go about identifying the members of the alleged class in this action?

A Well, I think that my counsel is very capable and very well versed in the methods, the appropriate methods, of doing so as approved by this client and I am sure it will be carried out in the proper way.

Q At the present time then you have no plan on how to go about identifying the members of the class?

MR. BIZAR: I object to the question, instruct the witness not to answer. The witness testified in effect it was approved and he is going to do it through counsel. That's his plan. It's not my testimony, it is the effect of his testimony.

Q Do you agree with your counsel?

A Yes.

MR. BIZAR: I object to the form.

Q Did you intend to pay for the costs of such identification?

A I am familiar with the rules, familiar with the cases, and I know my obligations. I will perform them.

Q Then your answer is yes?

A My answer is that I will perform whatever I am required to perform just as fast as I am advised to do it.

Q Are you willing to disclose your net worth?

MR. BIZAR: I object to that, and

instruct him not to answer.

I withdraw my objection, let the witness answer.

A I think that under the authorities you are entitled to know I am glad to tell you my net worth is quite far in excess of what is needed to pay the notice of class action to proper class members.

Q Would you like to give us an estimate in terms of numbers?

A Of my net worth?

Q Yes.

MR. BIZAR: No.

MS. CARPENI: Is there an objection?

MR. BIZAR: Yes, there is.

Q Mr. Stull, have you made any estimate as to what it is going to cost to notify the members of the class and to identify the members of the class?

A No.

Q Has your counsel?

A Has my counsel? If they had been able to do so at this time I would imagine they perhaps have.

Q Do you know what the estimate is?

A I don't know that they have made an estimate. I didn't say they made an estimate, did I?

I said the authority, the requirements of the authority, will be fulfilled.

Q Mr. Stull, if you don't know what the estimate of that cost is and you haven't made such an estimate, how then can you testify you are capable of paying for whatever cost is involved?

MR. BIZAR: I object to the form of the question on the grounds that it is argumentative and instruct the witness not to answer. If you want to restate it I will permit him to answer.

MR. WALDMAN: Will counsel permit me to refrain?

MR. BIZAR: No counsel will not permit you to refrain. You have concluded your examination.

Q Mr. Stull, you testified, I believe previously, that you had assets far in excess of the costs of the notice that would be involved in this case. What is that cost?

A I don't know the cost that will be involved in this case, but based upon my experience of more than 15 years in class actions and litigations, I am confident that with the small, comparitively small number of stockholders involved in Piper, that I will be able to manage.

Q Do you have an estimate of the size of the alleged class in this case?

A I don't hear you.

Q Have you estimated a size in the alleged class in this case?

A Not exactly, but there was a statement that from time to time there was a million six hundred thousand shares outstanding. Then I think that was whittled down and perhaps whittled down some more by the Bangor Punta purchases and then of course there is the question of what the class will be. Will it be the class of -- will it be composed of the sellers of Bangor Punta or the holders?

Q Mr. Stull, who is the alleged -- never mind, withdrawn.

Mr. Stull, I believe, you testified during the last session on page 12 of the transcript you own shares of approximately ten companies. Do you also own any debentures, convertible debentures, warrants or options in any companies?

A I am not sure.

Q Can you tell us as of December, 1968 what was the extent of your holdings of corporate common stock?

MR. BIZAR: In any particular company or do you want him to list all the companies?

MS. CARPENI: I want total, limit --

MR. BIZAR: I object and instruct him not to answer.

Q Do you recall what companies you held stock in as of December, 1968?

MR. BIZAR: I object and instruct him not to answer.

MS. CARPENI: What is that?

MR. BIZAR: Same reason, it is totally irrelevant. The question might be relevant of whether he owned shares of Piper which he already testified to, whether he owned shares in Bangor Punta, which he already testified to. I don't think any other company he may own has relevance in this case.

MS. CARPENI: I don't agree with you, Mr. Bizar, because I think obfuscation as an investor is very relevant in this case. It doesn't matter, we'll go on to something else.

Q Mr. Stull, since the time of your last deposition have you refreshed your recollection with respect to a conversation with William Piper, either Senior or Junior, to which you testified about last time?

A Can't say that I did.

Q Do you have any present recollection of the substance of that conversation today?

A Other than previously testified?

Q Well, your previous testimony describes the substance of that conversation.

A My best recollection is that it would be along the lines of the offer of Chris-Craft and the basis of admonition and his objectives. I don't recall further than that. I will put my mind on it when I see this testimony though and if I can come up with something else I will be glad to supply it.

Q Did you have any other conversations with anyone at Piper Management during the period, February through April, 1969?

A Possibly Mr. Green. I am not sure.

Q Do you recall the substance of that conversation?

A Not really.

Q Do you recall whether it took place?

A Probably within those dates, if I am correct.

Q What about from the period of May through December of 1969? Did you have any conversations with anyone at Piper Management?

A I don't think so.

Q Mr. Stull, on pages 36 and 37 of the transcript you refer to a conversation with Mr. Deming of the Chadbourne firm where you go on to say if there had been a conversation there would have been a memorandum as such. Have you located any such memorandum?

A I haven't looked.

MR. BIZAR: We looked. There is no such memorandum.

Q Mr. Stull, on page 28 of the transcript, you testified that you received word of the Chris-Craft offer, tender offer, by telegram. Do you have a copy of that telegram?

A Not here, but I would imagine that it could be made available to you.

MS. CARPENI: Mr. Bizar, was the telegram produced?

MR. BIZAR: At the last time it was even marked. I don't have the exhibits here today. You may have a copy of it.

MR. WALDMAN: I don't have a copy of it.

MS. CARPENI: Would you send me copies of all of the exhibits that were marked at the first deposition?

MR. BIZAR: If I have them, yes. Not all came from my files.

Q Mr. Stull, did you receive any other documents in connection with the Chris-Craft tender offer?

A Any other documents than what? What are you asking?

Q I will try to make you understand it. You testified that you received a telegram advising you of the Chris-Craft offer, was that the only document which you received from Chris-Craft advising you of the offer?

A The telegram in the first place --

MR. BIZAR: The telegram I think came from Mr. Piper.

A Absolutely.

Q Did you receive any documents from Chris-Craft advising you of the tender offer?

A I don't recall. I think that the Chris-Craft offer was in the newspapers. That's my best recollection at this late time. If you can refresh me in some way on this I will be glad to answer.

Q Did you receive the two telegrams which were referred to before you said came from Piper?

A I did not. I said I received a telegram from Piper. There may have been two, but I recall one distinctly. That is the first thing I think that I had that the Piper management, our management considered the Chris-Craft tender offer, which had made in the public press to be inadequate.

Q Did you receive any other documents from Piper about the Chris-Craft tender offer and in addition to the one or two telegrams?

A I am not sure about the second telegram, but I am sure that we received correspondence, that I received correspondence from Piper Aircraft following the telegram.

Q When you say correspondence do you mean more than one letter?

A My best recollection is that there are two or three.

Q Do you have those letters in your possession?

A I don't have them no, but you probably have them. If you don't have them, then perhaps my counsel can help you.

Q I am talking about --- I would like to see the letters which you received, not just forms.

A I know what you are saying. I will be glad to get it to you if I have them or if my counsel has them. It's a matter of public record today, you know.

Q There was a demand for production of documents which went along with the notice of deposition in this case. You are here pursuant to that notice.

A I cannot produce what I don't have.

MR. BIZAR: We produced the documents for inspection by Mr. Graf. It was my understanding that they would be available for all people and Mr. Graf left me with the impression it was there on behalf of all the defendants to take whatever copies they wanted. I do not have the documents here today that we produced. I suppose I can make them available, but they are not here today.

MS. CARPENI: Mr. Bizar, are there any other documents which you have that were not produced by Mr. Graf, which were responsive to the individual Piper defendants' request?

MR. BIZAR: There may be some documents, but I don't have the notice to produce at hand, but the documents we did not produce are documents which reflect Mr. Stull's work product. Those were gone through once or twice before. Everything else was produced except of course documents relative to the financial status of the plaintiff and/or his wife, which we will not produce. I think we served pleadings with respect to what we were going to produce and what we were not going to produce a long time ago and I think that pursuant to that pleading we did produce for Mr. Graf those documents.

MR. CARPENI: As of this date you have produced everything that was responsive with the exception of those documents which you have objected to?

MR. BIZAR: Yes.

THE WITNESS: Is there anything else?

MS. CARPENI: Yes, I am not finished.

Q Mr. Stull, was a search made for any documents which referred to page 92 of the transcript of your deposition, that refers to communications which you might have had with various stock exchanges?

A I have nothing.

MR. BIZAR: We made such a search. We saw no written communication, no evidence of written communications. Whether they were telephonic communications I cannot tell.

MR. WALDMAN: In any case there were no records?

MR. BIZAR: No records.

MR. WALDMAN: No documents?

MR. BIZAR: Right.

Q Mr. Stull, do you recall any telephone conversations which you might have had with either Paul Pennoye or Mr. Scheimer in connection with the Green or Pool cases?

A I must have had more than 100 conversations with Paul Pennoye. Scheimer I probably had some conversations, too, I don't know what you are talking about.

Q Mr. Stull, do you recall a telephone

conversation which you might have had with Schdimer about settling the Piper Chris-Craft problems in April of 1969?

A No, but if you tell me that's when it was I would accept it.

Q Do you recall such a conversation?

A No, I don't, but if you say I had one, I probably did.

Q In resolving the Piper Chris-Craft problems?

A Well, I tried to and I have spoken to Jim Ryan about them. I always had a good liaison with them and people conferred more than once. I tried to bring the parties together.

Q Did you make an attempt in 1969?

A I probably did. I don't remember dates. They were just good will efforts.

MS. CARPENI: That's all I have got.

MR. SULLIVAN: Mr. Stull, I would ask that you turn over any confirmation slips relating to your purchase of Chris-Craft securities.

THE WITNESS: I haven't got them.

MR. SULLIVAN: You said you just

purchased them a year ago.

THE WITNESS: Well, why should I save confirmations?

MR. BIZAR: We will supply the information to the extent we have them. I don't know if we have theconfirmation slips.

MR. WALDMAN: Do you have cross-examination?

MR. BIZAR: Yes.

EXAMINATION BY MR. BIZAR:

Q If I may have Exhibits I and J.

Mr. Stull, I direct your attention to Exhibit I, paragraph 23 thereof and ask you if you have had any facts or proof for the allegations contained in paragraph 23?

A Those statements here were based, were stated, on information and belief as I recall and they were based upon information that we had investigated in the public records. I had no proof. They were sufficient with information that was sufficient to make the charges.

Q In light of paragraph 23, why did you at that time either tender your shares to Chris-Craft or sell those shares in the open market? I am speaking of your Biper shares.

A I have no information sufficient to form or to make an informed judgment. I had information sufficient to make charges on the complaint, which incidentally were denied by the defendants. I don't know if I answered your question.

Q You did.

MR. BIZAR: I have no further questions.

(Whereupon at 3:20 p.m. the deposition of the witness was concluded.)

(Whereupon at 3:30 p.m. counsel, the witness, and the reporter appeared before Magistrate Schreiber for rulings.)

MR. SULLIVAN: Your Honor, I am Charles W. Sullivan, attorney for the defendant The First Boston Corporation. I am here to just review a couple of the problems that we had today. I talked with the reporter before the session and I think we won't press some of the problems, but I would like to press a couple of them and get rulings on them.

The first one is I asked Mr. Stull this morning if he would state for the record the other class actions in which he has been involved as a plaintiff, as a counsel, as a co-counsel, or as a consultant since 1970.

THE MAGISTRATE: What's the relevancy?

MR. SULLIVAN: We believe that the evidence will show, your Honor, that Mr. Stull has been involved in this class action litigation as a plaintiff or as a counsel for this period of time and we think that what we would like to do is conduct some research on some of these other actions and we do think it goes to the adequacy of Mr. Stull's attempt --

THE MAGISTRATE: Represented as a representative party?

MR. SULLIVAN: Yes.

THE MAGISTRATE: I assume the more cases he was involved in, the more capable he becomes a representative party, unless you are suggesting that he just brings these cases in his own name.

MR. SULLIVAN: Your Honor, until we have an opportunity to go into the background of some of these cases I think I can --

THE MAGISTRATE: What do you mean by go into the background? The Court recognizes Mr. Stull practices in this Court and is an officer of this Court and has handled a number of class actions, some of them appeared in the front pages of the law journal as settlement.

MR. SULLIVAN: Yes, your Honor.

THE MAGISTRATE: So, the only thing I guess you are suggesting is that Mr. Stull is so sophisticated that he is not a representative party, but counsel, where does that lead you? That's what I am curious about?

MR. SULLIVAN: Your Honor, we would feel that looking at the various cases, that how Mr. Stull may have handled the cases in the past as counsel, might reflect upon his status as a representative.

MR. BIZAR: I don't see how that follows.

MR. SULLIVAN: Mr. Bizar, you will have an opportunity.

THE MAGISTRATE: My impression is he has done rather well in these cases. Does that make him a good representative or a bad one?

MR. SULLIVAN: Your Honor, it would depend.

THE MAGISTRATE: Depend upon how much time he has to think up an argument? Counsel, I really am having some difficulty although asking him to list the numbers of cases that he's been represented, rather than the number of cases he has been counsel from 1970 through 1975. That, as far as I am concerned, you can go into, but only ask him to give it to you or if he doesn't remember he will fill it in. You will do no further discovery of him as to how he handled the cases. If you want to go out and look at those cases and figure out if you can what agreement you can reach, you can do so. If you want to know how many cases he has appeared as representative party or how many cases he has brought as counsel, he can list those cases.

MR. SULLIVAN: That's all we were seeking, your Honor. We are not seeking any description from him of each case.

THE MAGISTRATE: What we will do is leave a blank and I assume this transcript will be sent to counsel within a week or so and he will fill it in, that's all.

MR. BIZAR: Your Honor, I think that question, I am willing perhaps to let Mr. Stull list the cases he appeared as representative plaintiff, but as counsel his firm has been in practice, he's been in this field 15 years.

This will be burdensome and may even be an invasion of whatever --

THE MAGISTRATE: It's a public record.

THE WITNESS: We have cases all over the country.

THE MAGISTRATE: He does have an interesting argument, Mr. Stull, I don't know whather it will get him any place, but it does have an interesting argument as to whether, I don't know how they will develop it, but I assume their argument is something to the effect that a very sophisticated trial lawyer in the class action field can really not be a representative party because his series of development as a lawyer and not as a member of a class.

MR. BIZAR: I don't know where that takes us.

THE MAGISTRATE: It doesn't take you very far.

MR. BIZAR: I am willing to stipulate here that he is a sophisticated lawyer.

MR. SULLIVAN: That stipulation would not be --

THE WITNESS: Some of our cases were with Mr. Sullivan.

THE MAGISTRATE: I know. I have a better suggestion, Mr. Stull, the suggestion is you will just put down a number without listing each case.

MR. SULLIVAN: Your Honor, I would just ask --

THE MAGISTRATE: Counsel, if you wish to find out the cases that Mr. Stull has been a party, it is not difficult to have somebody go down to the clerk's office and look it up. Nobody is fooling anyone. Mr. Stull is sophisticated as a plaintiff, I don't know if he does any defendant's work but he certainly in a sophisticated plaintiff's lawyer.

MR. BIZAR: I will concede that.

THE MAGISTRATE: To make it easy you will have the number.

MR. SULLIVAN: I just ask for reinstatement of the previous ruling.

THE MAGISTRATE: I didn't make the previous ruling. I was thinking out loud, counsel. We are not going to try a dozen or two dozen previous cases.

MR. SULLIVAN: That's not our purpose our purpose your Honor, is to state our position to the renewal of the contracts.

THE MAGISTRATE: You are not going to renew it. He's going to renew.

MR. SULLIVAN: That's in our opposition papers. We want to point out to the Court that Mr. Stull is not an adequate class representative.

THE MAGISTRATE: In what capacity? He knows too much as a lawyer?

MR. SULLIVAN: Not that he knows

too much as a lawyer, but this type of thing that he has brought upon the Court will flood litigation of all these class actions.

THE MAGISTRATE: Even that theory is correct. The very simple nature of the number will be sufficient.

MR. SULLIVAN: Your Honor, I think I would just submit to your Honor that the members of this Court are familiar with some of these cases and I believe to place upon us the burden of sending a clerk out to the Courthouse --

THE MAGISTRATE: To do what?

MR. SULLIVAN: To look up all of these cases.

THE MAGISTRATE: For what? Nobody is suggesting that if Mr. Stull is called upon to set down the number of cases he is going to deceive the Court and put an erroneous number down.

MR. SULLIVAN: We just submit he put the name of the cases.

THE MAGISTRATE: Why?

MR. SULLIVAN: We would not want to

conduct this discovery of him, but look at these cases.

THE MAGISTRATE: For what purpose would that serve? That he has a lot of class actions? He admits that. It's not a bad occurrence to be a class action lawyer.

MR. SULLIVAN: No, we are not submitting that it is.

THE MAGISTRATE: Counsel, we might as well get down to the nitty gritty, the real question in this case is whether Mr. Stull, having been prior counsel on a case for his wife, which was held not to be class, whether he can continue it now in his own name. It's a fundamental, rather simple question and the Court can go either way and probably will upheld. I am not trying to decide which way the Court is going to go, but it is going to be a decision as to that. You know as well as I know in the 9th circuit, at least I am advised by some of my colleagues, --

MR. BIZAR: Your Honor, may I bring to your attention a case involving Judge Mitchler involving Harry Lewis. He has brought numerous class actions and the argument is similar to Mr. Sullivan's.

THE MAGISTRATE: He was a defendant.

MR. BIZAR: No, he was a plaintiff.

THE MAGISTRATE: Counsel, do me a favor, send me a copy?

MR. SULLIVAN: Your Honor, may I make a suggestion?

THE MAGISTRATE: Were you on the other side?

MR. SULLIVAN: I was not. May I make a suggestion in order to conclude this discussion?

THE MAGISTRATE: You don't have to suggest, I am going to conclude it as soon as I can.

MR. SULLIVAN: As far as the Southern or Eastern District is concerned, I would be willing to have a clerk from my office to come down --

THE MAGISTRATE: No, for the simple reason we will not be trying out cases. If you want the information to work up an argument that you can present of Mr. Stull's active involvement, both as a representative party and as counsel, you can do that by the very nature of the number that he gives you. He doesn't have to give you the specific cases. That is my ruling.

Next question.

MR. SULLIVAN: Your Honor, the next question concerns the issue of costs of notice. We asked Mr. Stull what his net worth was and whether he would be able to afford the cost of notice and cause of identification.

THE MAGISTRATE: How much is the notice going to come to in this case?

MR. BIZAR: We don't know.

THE MAGISTRATE: Do we have an approximation?

MR. SULLIVAN: We know, your Honor, to put the notices in the newspaper, in a recent case --

THE MAGISTRATE: Did you ask him what his net worth is?

MR. SULLIVAN: We asked him what his net worth was. He refused to respond.

THE MAGISTRATE: He can respond

by giving you general figures, more than 50,000, more than 100,000. I assume if his net worth is more than 100,000 it is sufficient.

MR. BIZAR: We will supply it in the transcript.

THE MAGISTRATE: From that we can pick it up. Anything else?

MR. SULLIVAN: No, your Honor. We have nothing further.

MS. CARPENI: One other point. I am Marcia Carpeni of Chadbourne, Park, Whiteside & Wolf, attorneys for defendants William T. Piper Jr. and Thomas F. Piper. I know at the last pretrial conference before you set down a class renewal of class notice for August 20th. Is there any way we can put that off until September?

THE MAGISTRATE: Why?

MS. CARPENI: I'm not going to be here in August. Everybody has the same story, but I am just going to be away for half of August and the first week of September.

MR. BIZAR: I have no objection.

THE MAGISTRATE: I have no objection in setting down the motion for Spptember 20th, then

I will give you one more month. You set it down returnable before the Judge in the week of September 20th. I think the Judge takes motions on Friday so it would be the Friday of September 24th and counsel you will give them enough time to submit their papers, but I do not want an adjournment or motion. I will give you an adjournment with the understanding there will be no further adjournments. The motion will be on the 24th before Judge Wyatt.

MR. BIZAR: I can serve my papers by August 20th.

THE MAGISTRATE: Fine, that's good. You will serve papers by the 20th and responsive papers will be served by the 17th of September.

(Time noted: 3:45, p.m.)

____

Subscribed and sworn to before me

this_____day of___________, 1976.

BEST COPY AVAILABLE

C E R T I F I C A T E

STATE OF NEW YORK)
: ss
COUNTY OF NEW YORK)

I, KATHLEEN RUSSELL, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That RICHARD J. STULL, the witness whose deposition is hereinbefore set forth (pages 97 to 196), was duly reported by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of August 1976.

Kathleen Russell
KATHLEEN RUSSELL

July 27, 1976

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Plaintiff's Motion For Class Determination and Partial Summary Judgment

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

--------------------------------x

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

--------------------------------x

75 Civ 3782 (I.B.W.)

NOTICE OF MOTION

S I R S :

PLEASE TAKE NOTICE that, upon the annexed affidavits of IRVING BIZAR and RICHARD J. STULL, sworn to August 23 ,1976, plaintiff's motion dated September 12, 1975, decision of this Court thereon, the complaint, Chris-Craft Industries v. Bangor Punta, Inc., et al., and the prior proceedings herein, the undersigned will move this Court on September 24th, 1976, at 2:30 P.M. in Room 905, United States District Courthouse, Foley Square, New York, New York, or as soon thereafter as counsel can be heard for an order (1) pursuant to FRCP Rule 23 and Rule 11A of the Civil Rules of this Court, determining this action to be a class action and (2) pursuant to FRCP Rule 56(a) granting partial summary judgment to plaintiff and the class against all defendants, declaring said defendants to be liable to plaintiff and the class, and for such other and further relief as the Court may deem just and proper.

Dated: August 23rd, 1976.

DEMOV, MORRIS, LEVIN & SHEIN
By Irving Bizar
A Member of the Firm
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

Plaintiff's Motion For Class Determination and Partial Summary Judgment

TO:

MESSRS. WEBSTER & SHEFFIELD
Attorneys for Defendant Bangor Punta Corporation
1 Rockefeller Plaza
New York, New York 10020

MESSRS. SULLIVAN & CROMWELL
Attorneys for Defendant The First Boston Corporation
48 Wall Street
New York, New York 10005

MESSRS. CHADBOURNE, PARK, WHITESIDE & WOLF
Attorneys for Defendants William T. Piper, Jr., et al.
30 Rockefeller Plaza
New York, New York 10020

Plaintiff's Motion For Class Determination
and Partial Summary Judgment

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----------------------------------x

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

-----------------------------------x

75 Civ. 3782
(I.B.W.)

RULE 9(g) STATEMENT

1. Plaintiff is a shareholder of Piper Aircraft Corporation, having acquired 50 shares by purchase on the New York Stock Exchange in or about January 1962 and 25 shares as a common stock dividend in or about November 1964. He has held these shares continuously and specifically during the period when Chris-Craft Industries, Inc. made tender offers in the year 1969 for the stock of Piper Aircraft Corporation.

2. The United States Court of Appeals for the Second Circuit in litigations entitled Chris-Craft Industries, Inc. v. Bangor Punta Corporation, et al., 480 F.2d 341 and CCH Fed. Sec. Law Rep. Decisions, ¶ 95,058 (April 11, 1975), conclusively held defendants with having violated Section 14(e) of the Securities and Exchange Act of 1934, which violations were designed to defeat the tender offers of Chris-Craft Industries, Inc. for the stock of Piper Aircraft Corporation.

Dated: August 23rd , 1975.

DEMOV, MORRIS, LEVIN & SHEIN
Attorneys for Plaintiff

Affidavit of Irving Bizar

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----------------------------------x

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

-----------------------------------x

75 Civ. 3782 (I.B.W.)

SUPPORTING AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

IRVING BIZAR, being duly sworn, deposes and says:

I am a member of the bar of this Court and of the firm of Demov, Morris, Levin & Shein, attorneys for the above-named plaintiff. I am familiar with the facts and prior proceedings herein and submit this affidavit in support of the annexed motion for (1) class determination under FRCP Rule 23, and (2) for partial summary judgment against defendants pursuant to Rule 56.

As will be shown hereinafter, the motion should be granted.

Nature of the Action

This class action is brought on behalf of the remaining public shareholders of defendant Piper Aircraft Corporation ("Piper" hereinafter) for violations of Section 14 of the Securities Exchange Act of 1934 and the Rules of the Securities and Exchange Commission applicable thereto.

BEST COPY AVAILABLE

The violations occurred during the tender offers made by Chris-Craft Industries, Inc. ("CCI" hereinafter) and Bangor Punta Corporation ("BP" hereinafter) in 1969. The complaint charges that the defendants made and engaged in fraudulent statements and practices designed to induce, and did induce, the public shareholders of Piper from accepting the two tender offers of CCI. The action rests, in part, upon the determinations of the United States Court of Appeals for the Second Circuit in the actions entitled Chris-Craft Industries, Inc. v. Piper Aircraft Corp., 480 F.2d 341 (2nd Cir. 1973) and CCH Fed. Sec. Law Rep., Decisions ¶ 95,058 (April 11, 1975).

Prior Proceedings

An earlier motion for class determination and partial summary judgment was made by plaintiff on or about September 12, 1975. This Court denied the motion without prejudice to renewal after the parties completed discovery. Magistrate Schreiber ruled that discovery would be limited to class questions.

Accordingly, plaintiff was deposed and documents were produced.

Thus, plaintiff's motion for class determination and partial summary judgment is now ready for renewal.

Class Determination

As plaintiff's Memorandum of Law more fully shows, this action meets the requirements of a class action under Rule 23.

1. The class is so numerous that joinder of all members is impracticable. While the exact number of the remaining public shareholders of Piper is not now known, it is sufficiently large to merit class action treatment. We estimate that the class consists of between 300 to 1,000 shareholders. Prior to the tender offers made by CCI and BP, there were 1,644,790 shares of Piper outstanding (including the controlling interestss held by the Piper family). As a consequence of the various tender offers, CCI owned 697,495 shares and BP owned 839,306 shares or a total of 1,536,801 shares, including the controlling interest owned by the Piper family. That left approximately 107,000 shares still outstanding in the hands of the public shareholders. Assuming each shareholder owns 100 shares, it would mean that there are approximately 1,000 members of the class; if each shareholder owned approximately 200 shares, it would mean there are approximately 500 members of the class. The Second Circuit stated that there were 1,400 public shareholders in its opinion of April 11,1975.

The information respecting the exact members of the class and its identity is in the exclusive possession of the defendants. However, it is clear from the foregoing that the class is sufficiently numerous as to require class determination. Indeed, the compelled joinder of 500 or 1,000 or 1,400 persons in this litigation would not be practicable.

2. The common questions of the law and fact predominates over any individual questions. The representations and practices committed by defendants to induce the public shareholders not to accept CCI's tender offers operated across the board and affected the public shareholders alike. The practices and

representations were fraudulent. Thus, the issues of fact and law are common to the class, and outweigh any individual issues. The common issues include:

(a) Were there fraudulent representations and practices committed upon the public shareholders;

(b) Were these practices and representations committed by defendants.

The common issues have even greater commonality in view of the Second Circuit's decisions determining that the defendants did commit fraudulent practices and representations to defeat CCI's two tender offers. Thus, there is another common issue affecting every member of the class: Whether the class can obtain the benefits of the judgments of the Second Circuit. This issue also outweighs any individual issue. As we shall show in connection with our motion for partial summary judgment, we submit that the class can obtain the benefits of the judgments.

3. Plaintiff's claims are typical of the claims of the class. All members of the class are, like plaintiff, public shareholders of Piper who did not accept the tender offers of CCI and BP. Plaintiff, as did every other member of a class, relied upon and was affected by the fraudulent representations and practices of defendants. Plaintiff has no interest adverse to the class; in fact, the relief he seeks is the same as for every other member of the class.

4. Plaintiff will fully and adequately protect the interests of the class. Plaintiff intends to pursue this action vigorously. He has testified on his deposition that he will bear all costs attendant thereto, and has supplied information which indicates that he is fully capable of doing so. He has in the affidavit submitted herewith, repeated

his intention to bear all costs. He is an attorney, experienced in stockholder litigation and has submitted information with respect to his deposition in this area which corroborates that experience. He has retained our firm as counsel and has testified on his deposition (and reiterated that testimony in his affidavit submitted herewith) that he will not share in any manner in the fees to be awarded to counsel. The competence and depndability of our firm as counsel to plaintiff in actions of this nature has been recognized. We have been appointed lead or general counsel in other securities class actions: In Re Revenue Properties Securities Actions, MDL No. 32, United States District Court, District of Massachusetts; In Re Caesars Palace Securities Actions, MDL No. 110, United States District Court, Southern District of New York; Lerman v. Tenney, United States District Court, Southern District of New York and Zolotnitzky v. Yablok, United States District Court, Southern District of New York. Most recently, our firm's diligence was recognized by Judge Carter of this Court in Carnivale Bag, et ano. v. Slide-Rite, et al., 74 Civ. 5574 (Opinion dated July 23, 1976).

5. A class action is superior to any other available method for the fair and efficient adjudication of the controversy. For any individual member of the class to retain competent counsel to litigate the important issues raised herein may entail costs and expenses far in excess of the class member's individual interest. Moreover, if individual actions are brought for each member of the class, the Court and the litigants would be inundated with litigations causing unnecessary waste, duplication and would place an intolerable burden on the judiciary. In fact, there would also be the

specter of possible inconsistent decisions raising questions of a repeated nature for an Appellate Court. Thus, the only practical way to resolve the issues raised herein is by class treatment.

Since the entire litigation between CCI and BP occurred in this Court and in this Circuit, all of the relevant records are here. In view of the decisions of the Second Circuit, management of this class action would present fewer problems than would be normally present in a typical securities class action litigation.

Motion for Partial Summary Judgment

Plaintiff also moves for partial summary judgment on the issue of liability as against the defendants.

As the accompanying affidavit of RICHARD STULL discloses, he was a stockholder immediately prior to the tender offers instituted by CCI and refrained from tendering his stock to CCI as a result of the representations and conduct of the defendants. He also testified at his deposition that he was prevented from making an informed judgment as to whether to tender his shares or to sell his shares in the open market.

The United States Court of Appeals for the Second Circuit has held that the defendants violated Section 14 of the Exchange Act by their aforesaid representations and conduct during the period of the CCI tender offers.

As the accompanying Memorandum of Law makes clear, plaintiff is entitled to the benefits of the aforesaid judgments and is entitled to recover from the defendants based upon the finding that they committed fraudulent representations and conduct during the tender offers.

WHEREFORE, it is respectfully requested that plaintiff's motion be granted in all respects.

Irving Bizar

Sworn to before me this
23rd day of August, 1976.

Mildred B Honig

MILDRED B. HONIG
NOTARY PUBLIC, State of New York
No. 41-1850351 Queens County
Certificate filed in New York County
Term Expires March 30, 1977

Affidavit of Richard J. Stull

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------------------------------x

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

----------------------------------x

75 Civ. 3782
(I.B.W.)

SUPPORTING AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

RICHARD J. STULL, being duly sworn, deposes and says:

I am a member of the bar of the State of New York and of this Court.

I make this affidavit in support of the annexed motion for class determination and partial summary judgment.

I am a stockholder of defendant Piper Aircraft Corp. ("Piper") and have been such continuously since I purchased fifty shares of Piper stock on the New York Stock Exchange in or about January 1962. Subsequent to that purchase, I received twenty-five shares of Piper stock as a dividend in November 1964. (Copies of the Stock Certificates are annexed as an Exhibit.)

I was a shareholder immediately prior to the commencemen of the tender offers of Chris-Craft Industries, Inc. and the subsequent offers of Bangor-Punta, Inc. I did not tender my stock, nor was I able to make an informed judgment with respect as to whether I should tender my stock or sell my shares in the open market, as a result of the statements, representations and conduct of the defendants that the CCI tender offers were inadequate.

I intend to prosecute this action vigorously, and will pay all costs attendant thereto. My net worth is in excess of approximately $100,000 and is more than sufficient to pay for such costs.

Although I am an attorney experienced in stockholder litigations, I have no agreement and do not intend to share, in any fees to be awarded by this Court.

WHEREFORE, it is respectfully requested that plaintiff's motion be granted.

Richard J. Stull

Richard J. Stull

Sworn to before me this
23rd day of August, 1976.

Mildred B. Honig

MILDRED B. HONIG
NOTARY PUBLIC, State of New York
No. 41-1850361 Queens County
Certificate filed in New York County
Term Expires March 30, 1977

Cross Motion of Defendant Bangor Punta Corporation

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

RICHARD J. STULL, :

Plaintiff, : NOTICE OF MOTION

-against- : 75 Civ. 3782 (I.B.W.)

NICHOLAS H. BAYARD, et al., :

Defendants. :

- -x

SIRS:

PLEASE TAKE NOTICE that upon the pleadings herein and upon all the papers served by you on the 23rd day of August, 1976, whereby you gave notice of motion for summary judgment for plaintiff, and upon the annexed affidavit of Allan J. Graf and the memorandum of law of Bangor Punta Corporation, the undersigned will make a cross-motion to your said motion at the United States Court House, City of New York, New York, on the 30th day of November, 1976, or as soon thereafter as counsel can be heard, that this court enter, pursuant to Rule 56 of the Federal Rules of Civil Procedure, a summary judgment in defendant's favor dismissing the action, on the grounds that (1) there is no genuine issue as to any material fact and that defendant is entitled to a judgment as a matter of law and (2) that plaintiff's claim is barred by the applicable statute of limitations.

Dated: November 30, 1976

WEBSTER & SHEFFIELD

By s/ James V. Ryan
A Member of the Firm
Attorneys for Defendant
Bangor Punta Corporation
1 Rockefeller Plaza
New York, New York 10020
Phone 212 582-3370

CA264

Cross Motion of Defendant Bangor Punta Corporation

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD J. STULL, :
Plaintiff, :
-against- :
NICHOLAS H. BAYARD, et al., :
Defendants. :

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Rule 9(g) Statement

75 Civ. 3782 (I.B.W.)

CROSS-MOTION OF DEFENDANT BANGOR PUNTA CORPORATION FOR SUMMARY JUDGMENT

The cross-motion of defendant Bangor Punta Corporation ("Bangor Punta") for summary judgment should be granted because there is no genuine issue to be tried with respect to the material facts enumerated hereunder.

(1) Plaintiff Richard Stull did not rely on any representation, statement or act of Bangor Punta in deciding not to accept the exchange offer made by Chris-Craft Industries, Inc. ("Chris-Craft") to the shareholders of Piper Aircraft Corporation ("Piper") between May and July, 1969.

(a) At the time Chris-Craft made its first cash tender offer of $65 per share to Piper shareholders in January, 1969, Richard Stull independently determined, without reference to any representation, statement or act of Bangor Punta, which did not seek to acquire control of Piper until early May, 1969, that Chris-Craft's tender offer was inadequate and for less than the fair value of Piper stock.

(b) Richard Stull, as attorney for his wife, Lillian Stull, instituted a lawsuit in February, 1969 entitled Stull v. Green in an effort to prevent Chris-Craft from acquiring majority ownership of Piper. The verified pleadings filed in Stull v. Green consistently characterized the Chris-Craft tender and exchange offers as "grossly and unconscionably inadequate," and three of those pleadings (February 3, 1969, May 29, 1969 and May 13, 1970) were signed by Richard Stull as attorney for his wife.

(c) Richard Stull continued to characterize Chris-Craft's exchange offer as "grossly and unconscionably inadequate" even after he had learned of all the representations, statements and acts of Bangor Punta, which he alleges in this action fraudulently caused him not to accept the Chris-Craft exchange offer.

(d) Richard Stull has admitted in his deposition taken in this action that he cannot recall having read Bangor Punta's registration statement, which he claims misled him into not accepting the Chris-Craft exchange offer.

(e) Richard Stull has admitted in his deposition taken in this action that he did not accept either the Chris-Craft or Bangor Punta exchange offers in the hope that Chris-Craft and Bangor Punta might make subsequent offers to Piper shareholders at higher prices.

(2) The claim of Richard Stull is barred by the applicable New York State statute of limitations.

(a) Plaintiff's claim against Bangor Punta is based on three separate representations or acts of Bangor Punta, alleged to be in violation of the federal securities laws: (i) a press release issued by Bangor Punta on May 8, 1969; (ii) private, off-exchange purchases of Piper stock in May, 1969 made during the course of Bangor Punta's exchange offer; and (iii) a registration statement issued by Bangor Punta on July 18, 1969 pursuant to its exchange offer.

(b) Each of the above representations or acts were made or occurred more than six years prior to the plaintiff's institution of this action on August 1, 1975.

(c) Plaintiff had knowledge of each of the above the representations or acts and their allegedly fraudulent nature not later than May 13, 1970, which is more than two years before the plaintiff's institution of this action.

MOTION OF PLAINTIFF RICHARD STULL FOR SUMMARY JUDGMENT

Richard Stull does not set forth any material facts as to which he alleges there is no genuine issue, but instead relies on the legal doctrine of collateral estoppel as the sole basis for his motion for summary judgment. Richard Stull claims that the decision of the United States Court of Appeals for the Second Circuit in Chris-Craft Industries, Inc. v. Piper Aircraft Corporation, 480 F.2d 341 (2d Cir. 1973), conclusively establishes the liability of Bangor Punta to the plaintiff and the class of Piper shareholders he seeks to represent. For the reasons stated below, the doctrine of collateral estopped is not applicable in the instant action.

Cross Motion of Defendant Bangor Punta Corporation

(1) The decision of the Court of Appeals does not establish the liability of Bangor Punta or any other defendant to the plaintiff class, but instead established the defendants' liability only to Chris-Craft.

(2) The decision of the Court of Appeals is not final, but is presently pending before the Supreme Court of the United States, which granted to the defendants a writ of certiorari in April, 1976 and heard oral argument on October 6, 1976.

(3) Richard Stull was not a party to nor in privity with a party to the action entitled Chris-Craft Industries, Inc. v. Piper Aircraft Corporation; and, therefore, may not invoke the doctrine of collateral estoppel.

(4) Between the decision of the Court of Appeals in Chris-Craft Industries, Inc. v. Piper Aircraft Corporation and the date of plaintiff's motion for summary judgment, the United States Supreme Court has adopted a standard of scienter for private actions under the anti-fraud provisions of the Securities and Exchange Act of 1934 different from the standard adopted by the Court of Appeals.

Dated: New York, New York
November 30, 1976

WEBSTER & SHEFFIELD
Attorneys for Defendant
Bangor Punta Corporation
1 Rockefeller Plaza
New York, New York 10020

Affidavit of Allan J. Graf

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD J. STULL, :

Plaintiff, : **AFFIDAVIT**

-against- : 75 Civ. 3782 (I.B.W.)

NICHOLAS H. BAYARD, et al., :

Defendants. :

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ALLAN J. GRAF, being duly sworn, deposes and says:

1. I am a member of the bar of this Court and associated with the firm of Webster & Sheffield, attorneys for defendant Bangor Punta Corporation ("Bangor Punta"). I submit this affidavit in support of the cross-motion of Bangor Punta, pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, for an order granting summary judgment in favor of Bangor Punta on the grounds that there is no genuine issue as to the fact that (a) plaintiff did not rely on any representation or act of Bangor Punta in choosing not to accept the Chris-Craft exchange offer, and (b) plaintiff's claim is barred by the applicable statute of limitations. I also submit this affidavit on behalf of Bangor Punta in opposition to the motion of plaintiff Richard Stull for an order (a) pursuant to Rule 23(c) determining the above action to be a class action and (b) pursuant to Rule 56(a) granting partial summary judgment.

2. Plaintiff has already made one motion to have this action certified as a class action. That motion was

denied without prejudice, and plaintiff was granted leave to renew his motion after discovery on the class action issues was completed. Plaintiff's deposition was taken on December 16, 1975 and July 27, 1976. Discovery has been completed, and plaintiff has renewed his motion.

BACKGROUND

3. This action arises out of the contest between Chris-Craft Industries, Inc. ("Chris-Craft") and Bangor Punta for control of Piper Aircraft Corporation ("Piper"). In January, 1969, Chris-Craft began to make substantial purchases of Piper stock with the possible objective of acquiring control. On January 20, 1969, Chris-Craft made a cash tender offer of $65 to Piper shareholders, which offer closed on February 4, 1969. Subsequently, Chris-Craft made an exchange offer to Piper shareholders, which became effective on May 15, 1969 and closed on July 29, 1969.

4. Bangor Punta did not enter the contest for control of Piper until May 8, 1969, at which time Bangor Punta announced by press release that it would make a registered exchange offer of its own to Piper shareholders. Bangor Punta's exchange offer became effective on July 18, 1969 and closed on August 4, 1969.

PLAINTIFF DID NOT RELY ON BANGOR PUNTA'S REPRESENTATIONS OR ACTS

5. In the present action, plaintiff seeks to represent a class of shareholders of Piper who held Piper shares prior to August 4, 1969 and who were induced and dissuaded by defendants' acts from accepting Chris-Craft's exchange

offer to Piper shareholders. Yet almost from the moment that Chris-Craft began to make substantial acquisitions of Piper stock, plaintiff sought to defeat Chris-Craft's tender and exchange offers. His actions in this regard make it manifest that he never relied on any representation or acts of Bangor Punta in deciding not to accept Chris-Craft's exchange offer.

6. On February 3, 1969, months before Bangor Punta entered the control contest, a derivative suit on behalf of Piper was nominally commenced by plaintiff's wife, Lillian Stull. Chris-Craft was named a defendant in the action, entitled Stull v. Green, 69 Civ. 440 (S.D.N.Y.). Richard Stull, the plaintiff herein, represented his wife as her attorney. The original complaint, annexed hereto as Exhibit A, alleged that Chris-Craft, by making its cash tender offer of $65, was trying to obtain control of Piper for less than the fair value of Piper (¶22) and sought damages and an injunction.

7. On May 29, 1969, an amended and supplemental complaint was filed in Stull v. Green to reflect the fact that Chris-Craft was then making an exchange offer to Piper shareholders - the very exchange offer (with the exception of four warrants which were added to Chris-Craft's package on July 24, 1969) which plaintiff herein claims he was induced not to accept. Paragraphs 37 and 38 of this amended complaint, annexed hereto as Exhibit B, characterized Chris-Craft's exchange offer as "grossly and unconscionably inadequate and of little value, if any, above Chris-Craft's...tender offer of $65.00 per share...." The amended complaint also added Bangor Punta as a defendant and likewise claimed that, by

its exchange offer, Bangor Punta would seek to acquire control of Piper at a grossly inadequate price.

8. As attorney for his wife in Stull v. Green, plaintiff signed, as required by Rule 11 of the Federal Rules of Civil Procedure, three of the five complaints filed in that action, all of which alleged that the Chris-Craft tender and exchange offers were inadequate. In accordance with Rule 11, plaintiff's signing of those complaints is his affirmation that he, in good faith, believed the allegations of the complaints to be true.

9. The pleadings filed in Stull v. Green conclusively establish that plaintiff did not rely on any representation or act of Bangor Punta in deciding not to tender his Piper shares to Chris-Craft or in determining that Chris-Craft's offer was "grossly and unconscionably inadequate." The allegations about "the grossly and unconscionably inadequate" Chris-Craft exchange offer made in Stull v. Green were made at a time when plaintiff herein had knowledge of all the violations of Bangor Punta which, he alleges in this action, induced him not to tender his shares to Chris-Craft.

10. Specifically, plaintiff alleges in the present action that Bangor Punta's liability is based on three violations of the federal securities laws: (a) Bangor Punta issued an allegedly misleading press release in May, 1969 (¶¶ 14 and 15); (b) Bangor Punta's registration statement for its exchange offer contained an allegedly misleading statement about the market value of the shares of the Bangor & Aroostock Railroad (BAR), one of its subsidiaries (¶16); and (c) Bangor Punta purchased some Piper shares in violation of SEC Rule 10b-6.

11. On May 13, 1970, Lillian Stull verified another amended and supplemental complaint in Stull v. Green (annexed hereto to Exhibit C). This complaint was signed by Richard Stull, as required by Rule 11. Paragraph 22 of the complaint contains the allegation about the press release; paragraph 23 contains the allegation about Bangor Punta's misleading registration statement; and paragraph 24 contains the allegation about Bangor Punta's violation of SEC Rule 10b-6. Paragraph 40 of the complaint alleges that Chris-Craft's May, 1969 exchange offer "was again grossly and unconscionably inadequate and of little value, if any, above Chris-Craft's aforesaid tender offer of $65.00 per share and which may well be less than Chris-Craft's first said tender offer." Paragraph 37 of the complaint alleges that any merger of Piper into Chris-Craft was "contrary to the interests of Piper and its shareholders, and to the detriment and damage of Piper and its shareholders." Thus, the allegations contained in this complaint make it obvious that there is absolutely no connection between Bangor Punta's alleged violations of the federal securities laws and plaintiff's decision not to accept Chris-Craft's exchange offer.

12. Furthermore, plaintiff has admitted that he could not recall reading Bangor Punta's prospectus and registration statement, which he claims principally misled him into deciding not to accept the Chris-Craft exchange offer. At his deposition held on July 27, 1976, plaintiff testified as follows:

> "Q First of all, did you ever read a copy of such prospectus?
>
> A I can't recall it. I don't recall it, possibly I did or probably. I don't know

> what to answer you. If this was sent to stockholders, then I received it. To what extent I studied it or read it, I cannot answer you." (Tr. p. 109)

13. Finally, plaintiff has admitted at his deposition that the reason he continued to hold onto his Piper shares and did not accept either the Chris-Craft or Bangor Punta exchange offers was that he believed that Chris-Craft and Bangor Punta would make further, more valuable exchange offers. (Tr. p. 106, annexed hereto as Exhibit D)

14. Bangor Punta's cross-motion for summary judgment should be granted because there can be no dispute that plaintiff did not rely on any representation or act of Bangor Punta in deciding not to accept the Chris-Craft exchange offer.

PLAINTIFF'S CLAIM IS BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS

15. Summary judgment should be granted in favor of Bangor Punta because the facts conclusively establish that plaintiff's claim against Bangor Punta is barred by the applicable statute of limitations.

16. Plaintiff's claim against Bangor Punta is brought pursuant to Sections 14(d) and 14(e) of the Securities Exchange Act of 1934. Since these sections of the Act contain no statute of limitations, the relevant state statutes of limitations are applied - in this case the New York statute of limitations for claims based on fraud. New York Civil Practice Law and Rules SS 203(f) and 213(d). As is pointed out in Bangor Punta's memorandum of law, the New York statute provides that fraud claims shall be barred if brought more than six years after

the alleged fraudulent acts or more than two years after the plaintiff's discovery of the fraud, whichever is longer.

17. The alleged fraudulent acts by Bangor Punta, of which plaintiff complains, occurred between May 8 and July 18, 1969. Bangor Punta's press release (Complaint ¶22) was issued on May 8, 1969, and the purchases of Piper stock alleged to have been in violation of SEC Rule 10b-6 (Complaint ¶24) were also made in May, 1969. Bangor Punta's registration statement (Complaint ¶23) was issued on July 18, 1969. Plaintiff filed this action on August 1, 1975, more than six years after the occurrence of any of the alleged fraudulent acts. Pursuant to New York CPLR §213(8), this action should be barred.

18. Furthermore, plaintiff did not commence this action within two years of his discovery of the alleged fraud. Plaintiff knew of Bangor Punta's alleged fraud as of May 13, 1970, the date on which he signed the last amended and supplemental complaint in Stull v. Green. (¶11 of this Affidavit, supra) Thus pursuant to New York CPLR §203(f), this action should be barred.

19. As is pointed out in Bangor Punta's memorandum of law, the applicable statute of limitations was not tolled by the pendency of a virtually identical class action, Stull v. Pool (72 Civ. 2055), in which plaintiff's wife, Lillian Stull, was the nominal plaintiff and was again represented by her husband, the plaintiff herein, as attorney. In Stull v. Pool, Lillian Stull sought to represent the exact same class as her husband seeks to represent in this suit. The allegations of liability on the part of Bangor Punta are virtually identical in the two actions. Stull v. Pool was denied certification as a class action by Judge Owen of this Court

on April 30, 1974 on the grounds that Lillian Stull was an inadequate representative of the class. Stull v. Pool, 63 F.R.D. 703 (S.D.N.Y. 1974). Lillian Stull's appeal was dismissed by an order of the Court of Appeals for the Second Circuit, dated October 8, 1974.

20. After class action certification was denied in Stull v. Pool, plaintiff herein did not seek to intervene in that action. Plaintiff instead chose to wait almost one year before instituting this entirely new and separate action. As is pointed out in Bangor Punta's memorandum of law, the statute of limitations would have been tolled only if plaintiff had intervened in Stull v. Pool after class action status for that action was denied.

PLAINTIFF'S MOTION FOR CLASS ACTION CERTIFICATION

21. Plaintiff cannot show that he relied on any representation or act of Bangor Punta in deciding not to tender his Piper shares to Chris-Craft, thus he cannot recover the damages which he seeks in this action. Therefore, plaintiff is not able to qualify as a class representative, since his claim cannot be "typical" of the claims of the other members of the purported class as required by FRCP 23(a)(3). Furthermore, if plaintiff's individual claim is likely to be dismissed, plaintiff cannot reasonably be expected to protect "fairly and adequately" the interests of the class as required by FRCP 23(a)(4).

22. By this motion, plaintiff also seeks to reverse the previous decision of Judge Owen of this Court, rendered in Stull v. Pool, which held that his wife, Lillian Stull,

could not adequately represent the same class which plaintiff now seeks to represent.

23. Among the reasons Judge Owen disqualified Lillian Stull was the fact that she had consistently stated, in the five verified complaints filed in Stull v. Green, that the Chris-Craft tender and exchange offers were for "less than fair value of Piper" or "grossly and unconscionably inadequate" and that any merger between Chris-Craft and Piper was "contrary to the interests of Piper and its shareholders". In referring to the statements contained in the pleadings of Stull v. Green, Judge Owen held:

> "These scathing assertions tarnish plaintiff's present ability to be the representative of all stockholders who were allegedly induced by defendant's material misstatements and omissions not to accept the [Chris-Craft] offer." (63 F.R.D. at p. 705)

24. Plaintiff cannot cure his wife's inadequacy as a class representative by substituting himself as the class representative in this action. He has already testified at his deposition that he believed that the Chris-Craft tender and exchange offers were inadequate, and he continued to hold that belief even after he had learned of Bangor Punta's alleged violations of the federal securities laws (Tr. pp. 45-46, 118-120, annexed hereto as Exhibit E). In addition, his certification pursuant to Rule 11 of three of the complaints filed in Stull v. Green has particular force here, since he was not only an attorney in Stull v. Green, but also a Piper shareholder whose personal financial interest was involved. Plaintiff is thus placed in the same hopelessly contradictory position as his wife, whom Judge Owen in Stull v. Pool disqualified from representing the same class.

25. Finally, as is pointed out in Bangor Punta's memorandum of law, this action is not an appropriate class action. The principal issue in this case is reliance, which is a question of fact unique to each individual Piper shareholder who did not accept either the Chris-Craft or the Bangor Punta offers. Therefore, common questions of fact do not predominate as required by FRCP 23(b)(3), and this action is not properly certifiable as a class action.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

26. Plaintiff moves for partial summary judgment against all the defendants herein, contending that the defendants are collaterally estopped from denying their liability to the plaintiff and the class of Piper shareholders he seeks to represent by reason of the decisions of the Court of Appeals for the Second Circuit in Chris-Craft Industries, Inc. v. Piper Aircraft Corp., 480 F.2d 341 (2d Cir. 1973), and 516 F.2d 172 (2d Cir. 1975). Plaintiff's motion must be denied because (a) the decisions of the Court of Appeals did not establish defendants' liability to plaintiff and the class he seeks to represent and (b) those decisions are presently pending before the Supreme Court of the United States, which granted defendants a writ of certiorari on April 5, 1976 and heard oral argument on October 6, 1976.

27. In Chris-Craft Industries, Inc. v. Piper Aircraft Corp., the Court of Appeals held that Bangor Punta was liable to Chris-Craft under Section 14(e) of the Securities and Exchang Act of 1934 because Bangor Punta's private purchases of Piper stock during its outstanding exchange offer and its misleading registration statement must be presumed to have caused certain

Piper shareholders to accept the Bangor Punta exchange offer, thereby depriving Chris-Craft of the opportunity to compete for control of Piper.

28. The question of what effect defendants' representations and acts had on the Piper shareholders who did not accept the Chris-Craft or Bangor Punta exchange offers was never decided by the Court of Appeals. Indeed, the Court of Appeals presumed that had Bangor Punta not violated the federal securities laws, the Piper shareholders would have acted exactly as the plaintiff herein acted - they would have held onto their Piper shares and not accepted either the Chris-Craft or the Bangor Punta exchange offers (480 F.2d at p. 375). Therefore, Bangor Punta cannot be collaterally estopped by these decisions from denying liability to the plaintiff and the purported class.

29. Furthermore, any motion for summary judgment against the defendants should be held in abeyance until the Supreme Court has decided the issues raised by the Chris-Craft case. Each issue on which plaintiff premises Bangor Punta's liability under the federal securities law has been raised before the Supreme Court; and, should the Supreme Court reverse the Court of Appeals, plaintiff's assertion of collateral estoppel may be effectively eliminated.

WHEREFORE, it is respectfully requested that defendant Bangor Punta's cross-motion for summary judgment be granted and that plaintiff's motion for class action certification and partial summary judgment be denied in all respects.

Allan J. Graf

Allan J. Graf

Sworn to before me this
30th day of November, 1976.

Patricia A. MacDonald

Notary Public

PATRICIA A. MacDONALD
Notary Public, State of New York
No. 41-2446050
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1977

(GRAF EXHIBITS OMITTED)

CA280

Cross Motion of Piper Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD J. STULL, : 75 Civ. 3782 (IBW)

Plaintiff, : NOTICE OF CROSS-MOTION BY DEFENDANTS HOWARD

-against- : PIPER, THOMAS F. PIPER AND WILLIAM T. PIPER,

NICHOLAS H. BAYARD, *et al.*, : JR. FOR SUMMARY JUDGMENT

Defendants. :

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PLEASE TAKE NOTICE that upon the complaint herein, the annexed affidavit of Paul G. Pennoyer, Jr., sworn to October 29, 1976, and the exhibits thereto, the transcripts of plaintiff's depositions held on October 9-10, 1975 and July 27, 1976, the memorandum in support of the motion and the annexed statement pursuant to Rule 9(g) of the General Rules of this Court, and upon all the pleadings and proceedings heretofore had herein, the undersigned will cross-move this Court before the Honorable Inzer B. Wyatt on the 17th day of December, 1976 at 2:30 o'clock p.m., or as soon thereafter as counsel may be heard, in Room 1506, United States Courthouse, Foley Square, New York, New York for an order pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, for summary judgment against plaintiff on the grounds that there is no issue as to any material fact and that the moving parties are entitled to judgment as a matter of law, and for such other and further relief as this Court may deem just and proper.

New York, New York
November 30,1976.

CHADBOURNE, PARKE, WHITESIDE & WOLFF

By
A Member of the Firm
Attorneys for Defendants, Howard
Piper, Thomas F. Piper and
William T. Piper, Jr.
30 Rockefeller Plaza
New York, New York 10020
(212) 541-5800

TO: DEMOV, MORRIS, LEVIN & SHEIN
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

SULLIVAN & CROMWELL
Attorneys for Defendant
First Boston Corporation
48 Wall Street
New York, New York 10005

WEBSTER & SHEFFIELD
Attorneys for Defendant
Bangor Punta Corporation
1 Rockefeller Plaza
New York, New York 10020

CA283

Cross Motion of Piper Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - -x

RICHARD J. STULL, :

Plaintiff, : 75 Civ. 3782 (IBW)

-against- : STATEMENT PURSUANT TO RULE 9(g) OF THE

NICHOLAS H. BAYARD, et al., : GENERAL RULES AND RESPONSE TO PLAINTIFF'S

Defendants. : RULE 9(g) STATEMENT

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The following are material facts as to which the defendants Howard Piper, Thomas F. Piper and William T. Piper, Jr. contend there is no genuine issue to be tried:

1. Letters dated January 27 and 28, 1969, over the signature of William J. Piper, Jr., were sent to the shareholders of Piper Aircraft Corporation ("Piper"), advising them not to accept the limited tender offer of Chris-Craft Industries, Inc. ("Chris-Craft") at $65 per share for up to 300,000 shares of common stock of Piper.

2. Chris-Craft's cash tender offer for Piper shares became effective on January 23, 1969 and closed on February 3, 1969.

3. Letters dated June 4 and July 25, 1969, over the signature of William T. Piper, Jr., were sent to Piper shareholders advising them to accept an exchange offer by Bangor Punta Corporation ("Bangor Punta") for shares of Piper stock, which became effective July 18, 1969 and expired July 29, 1969.

4. Plaintiff filed his complaint in this action on August 1, 1975.

5. Plaintiff testified that he realized that he would have been better off if he had accepted Chris-Craft's offers for Piper stock and had been deprived by the defendants of an opportunity to receive a fair offer for his stock by the time that Judge Pollack handed down his decision on liability in Chris-Craft Industries, Inc. v. Piper Aircraft Corp., 337 F. Supp. 1128 (S.D.N.Y. 12/10/71) (Stull Deposition, pp. 61,66).

6. The complaint in Stull v. Greene, 69 Civ. 440, was signed by the plaintiff and filed on February 3, 1969 (Greene complaint I).

7. Plaintiff signed an amended complaint in Stull v. Greene, which was verified by his wife, Lillian Stull on March 12, 1969 (Greene complaint II).

8. A second amended complaint in Stull v. Greene was signed on behalf of the law firm of Stull & Stull and verified by Lillian Stull on April 7, 1969 (Greene complaint III).

9. An "Amended and Supplemental Complaint," in the Greene action was signed on behalf of Stull & Stull and verified by Lillian Stull on May 29, 1969 (Greene complaint IV).

10. An "Amended and Supplemental Complaint" in the Greene action was signed by plaintiff and verified by Lillian Stull on May 13, 1970 (Greene complaint V).

11. Plaintiff signed an affidavit, dated May 29, 1969, which was submitted in support of a motion for leave

to file Greene complaint IV.

12. In May 1972 Stull & Stull filed a complaint on behalf of Lillian Stull in Stull v. Pool, 72 Civ. 2055.

13. Plaintiff believed that the allegation set forth in Greene complaint IV, that the Piper shares were worth "in excess of $100 per share" "had merit" and he "did not disagree with that view." (Stull Deposition, p. 151.)

14. During the pendency of Chris-Craft's exchange offer plaintiff believed that its offer was inadequate. (Stull Deposition, pp. 45, 46 and 106.)

Response to Plaintiff's Rule 9(g) Statement

With respect to ¶2 of plaintiff's Rule 9(g) statement submitted in support of his motion for partial summary judgment, defendants state that the decisions of the United States Court of Appeals for the Second Circuit in Chris-Craft Industries, Inc. v. Piper Aircraft Corp., reported in 480 F.2d 341 and 516 F.2d 172 are on appeal to the United States Supreme Court, oral argument having been heard on the matter on October 6, 1976. The Piper defendants otherwise disagree with the balance of plaintiff's statement in ¶2.

New York, New York
November 30, 1976

CHADBOURNE, PARKE, WHITESIDE & WOLFF

By ______________________
A Member of the Firm
Attorneys for Defendants, Howard
Piper, Thomas F. Piper and
William T. Piper, Jr.
30 Rockefeller Plaza
New York, New York 10020
(212) 541-5800

Affidavit of Paul G. Pennoyer, Jr.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD J. STULL, : 75 Civ. 3782 (IBW)

Plaintiff, : AFFIDAVIT IN SUPPORT OF PIPER DEFENDANTS' CROSS MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO PLAINTIFF'S MOTION FOR A CLASS DETERMINATION AND PARTIAL SUMMARY JUDGMENT

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

- - - - - - - - - - - - - - - - - - -x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

PAUL G. PENNOYER, JR., being duly sworn, deposes and says:

1. I am a member of the firm of Chadbourne, Parke, Whiteside & Wolff, attorneys for defendants Howard Piper, Thomas F. Piper and William I. Piper, Jr. ("the Piper defendants"). I am fully familiar with the matters hereinafter set forth and make this affidavit in opposition to plaintiff's motion for an order (1) pursuant to Rule 23 of the Federal Rules of Civil Procedure, determining that this action be maintained as a class action and (2) pursuant to Rule 56(a) of the Federal Rules of Civil Procedure granting partial summary judgment against the defendants on the issue of liability. I also submit this affidavit in support of the Piper defendants' cross-motion, pursuant to Rule 56(b), for an order granting summary judgment against the plaintiff.

2. This is a purported stockholder's representative action by Richard Stull, brought pursuant to Sections 14(d) and 14(e) of the Securities Exchange Act. The action

arises out of a contest between Chris-Craft Industries, Inc. ("Chris-Craft") and Bangor Punta Corporation ("Bangor Punta") for control over Piper Aircraft Corporation ("Piper") during the period from January 23, 1969 to September 5, 1969.

3. The key events in the contest for control are as follows. On January 23, 1969, Chris-Craft announced a limited cash tender offer at $65 per share for up to 300,000 shares of common stock of Piper. After Piper's management received advice from outside consultants, it decided that Chris-Craft's investment in Piper would not be in the interests of Piper shareholders. By letters dated January 27 and 28, 1969, over the signature of William T. Piper, Jr., President of Piper at the time, the shareholders were advised not to accept Chris-Craft's tender offer. True copies of both letters are attached hereto as Exhibits A and B, respectively.

4. Chris-Craft completed its cash tender offer on February 3, 1969, having received more than 300,000 shares of Piper. Seeking to gain additional Piper shares, Chris-Craft filed a registration statement with the Securities and Exchange Commission late in February, for an exchange offer for a minimum of 80,000 shares of Piper stock. The exchange offer became effective on May 19, 1969, but was withdrawn in July 1969 when Chris-Craft announced a second exchange offer, the same as the first one, with the exception of four additional warrants, for up to 300,000 shares, which became effective July 24, 1969 and expired August 4, 1969.

5. Bangor Punta entered the contest for control in May 1969. On May 8th it issued a press release announcing an exchange offer for Piper stock. On May 29, 1969 it filed its registration statement for the exchange offer which became effective on July 18, 1969. Defendant First Boston Corporation served as the underwriter of Bangor Punta's registration statement. The exchange offer expired on July 29, 1969 with approximately 110,000 shares being tendered. By letters dated June 4 and July 25, 1969, over the signature of William T. Piper, Jr., (true copies of which are attached hereto as Exhibits C and D, respectively), the Piper shareholders were advised to accept Bangor Punta's exchange offer. On August 8, 1969 Bangor Punta began making open market purchases of Piper shares and by September 5, 1969 had acquired over 50% of the stock of Piper and had won the contest for control by the purchase of over 100,000 shares for cash on the open market.

6. A copy of a chart detailing the open market prices and volume of Piper shares traded on the New York Stock Exchange from January 1, 1969 through August 8, 1969 is attached hereto as Exhibit E. The open market prices and volume of Piper shares traded on the Philadelphia-Baltimore-Washington Exchange for the period from August 11, 1969 through August 29, 1969 are set forth in a copy of a chart attached hereto as Exhibit F.

7. In addition to the foregoing chronology of events, true copies of the following documents, referred to in the Piper defendant's memorandum, in connection with the Stull v. Greene (69 Civ. 440) and Stull v. Pool (72 Civ. 2055) actions, are attached hereto as Exhibits G through M, respectively, as follows: original complaint,

verified February 3, 1969 ("Greene complaint I"); amended complaint, verified March 12, 1969 ("Greene complaint II"); second amended complaint, verified April 7, 1969 ("Greene complaint III"); amended and supplemental complaint, verified May 29, 1969 ("Greene complaint IV"); affidavit of Richard Stull sworn to May 29, 1969 and submitted in support of motion to file Greene complaint IV; amended and supplemental complaint, verified May 13, 1970 ("Greene complaint V"); and original complaint in Stull v. Pool, filed on May 10, 1972.

8. For the convenience of the Court a copy of the transcript of the deposition of Richard Stull taken October 9-10, 1975 and July 27, 1976 will be submitted to the Court with the Piper defendants' motion papers.

9. For the reasons set forth in the Piper defendants' memorandum, I respectfully request that their motion for summary judgment be granted and plaintiff's motion for a class determination and partial summary judgment be denied.

Paul G. Pennoyer, Jr.

Sworn to before me this
[illegible] day of October 1976.

Notary Public

BESSIE STEINBERG
Notary Public, State of New York
No. 24-9171025
Qualified in Kings County
Commission Expires March 30, 1978

PIPER AIRCRAFT CORPORATION
Lock Haven, Pennsylvania 17745

IMPORTANT

January 27, 1969

DEAR SHAREHOLDER:

In an attempt to gain control of your Company, Chris-Craft Industries, Inc., a small New York based conglomerate, has offered to purchase 300,000 shares of Piper Common Stock at $65 per share.

Your Board of Directors has carefully studied this offer and is convinced that it is inadequate and not in the best interests of Piper's shareholders. Accordingly, your Board unanimously urges that it be rejected. **Not one member of your Board of Directors or management will tender his shares.**

Obviously, if Chris-Craft is suddenly willing to offer you $65 per share for your shares, Chris-Craft must believe that Piper stock is worth substantially more than it is offering.

Remember, any tender of your shares will be irrevocable on or after January 30, 1969. In other words, after this date your shares could be out of your possession and control until March 24, 1969 and without any payment to you.

In addition, this offer is conditioned on your surrendering to Chris-Craft an irrevocable proxy for the annual meeting on February 4, 1969. Your management believes this is a solicitation of proxies without proper compliance with the federal securities laws and has referred the matter to counsel.

EXHIBIT A

In your own interest, we urge you to consider carefully the following important points:

1. This offer is a fully taxable transaction.
2. Piper's stock has traded as high as $72.25 on the New York Stock Exchange within the past eight months.
3. Piper's sales increased more than 20% in fiscal 1968 over the prior year, and its earnings per share were approximately 29% higher.
4. The general aviation industry is a growth industry, and Piper expects to participate fully in this growth.

You should know that Piper's management has had preliminary discussions with several major industrial corporations regarding possible combination with Piper. These are continuing. In the opinion of your Board of Directors and management, if a merger or consolidation were deemed advisable, a higher value could be realized for all shareholders and possibly on a tax-free basis. Any shareholder who has tendered his shares will not, of course, benefit from any such development.

For these reasons, your Board of Directors again strongly recommends that you reject the Chris-Craft offer.

We will forward additional important information to you within the next several days. If I can be of further assistance to you, please do not hesitate to call me collect at (717) 748-6711.

Sincerely,

s/ W. T. Piper, Jr.
W. T. Piper, Jr.
President

PIPER AIRCRAFT CORPORATION
Lock Haven, Pennsylvania 17745

January 28, 1969

DEAR SHAREHOLDER:

In our letter of January 27, 1969, the Board of Directors unanimously urged you to reject the tender offer, conditioned upon an "irrevocable" proxy, by Chris-Craft Indutries, Inc. Your Management firmly believes this offer is inadequate and not in the best interests of Piper shareholders.

The annual meeting of shareholders of Piper will be held Tuesday, February 4, 1969 to elect directors and approve the selection of independent auditors. All shareholders as of the record date, January 3, 1969, are entitled to vote at this meeting. Since the directors are to be elected on a cumulative voting basis it is important to have as high a representation as possible at the meeting.

Chris-Craft has announced that it has purchased 200,500 shares of Piper previous to its tender offer "with a view to control of Piper''. In addition, Chris-Craft has stated that if its offer is successful it would then plan to combine Chris-Craft and Piper. Since Chris-Craft's offer, which expires on February 3, 1969, asks for an "irrevocable" proxy for the annual meeting to be held the following day, Chris-Craft would then be in a position to elect its own representatives to your Board of Directors. *If Chris-Craft then continued its plan to combine Chris-Craft and Piper, Chris-Craft in effect would be dealing with itself or its own representatives.* Certainly the fiduciary duty of Piper's Board of Directors is to the Piper shareholders. On the other hand, the fiduciary duty of Chris-Craft's directors or representatives would be to Chris-Craft's shareholders—*not to you.*

EXHIBIT B

Your Board of Directors and Management firmly believe that Chris-Craft's offer is the first step in a plan to gain control of Piper and then merge Piper into Chris-Craft Industries rather than dealing on an arm's-length bargaining basis.

In your own best interests, we urge you to support your present independent Board of Directors. Regardless of the number of shares you may own please sign, date and mail your proxy today.

We will continue to keep you informed.

Sincerely,

s/ W. T. Piper, Jr.
W. T. Piper, Jr.
President

CA294

Affidavit of Paul G. Pennoyer, Jr.

Piper Aircraft Corporation
Lock Haven, Pennsylvania 17745

IMPORTANT

June 4, 1969

DEAR PIPER SHAREHOLDER:

On May 29, 1969 Bangor Punta Corporation filed a registration statement with the Securities and Exchange Commission for a proposed Exchange Offer of a package of its securities for all shares of Piper Aircraft Corporation that you may own. A copy of the Preliminary Prospectus relating to this proposed Exchange Offer was mailed to you last week. In your own interests we urge you to read and study this material carefully.

Bangor Punta's proposed offer for each of your Piper shares consists of one share of Bangor Punta common stock, a warrant to purchase 3.25 shares of Bangor Punta common stock at $55 per share and $15 principal amount of a new Bangor Punta 5½% convertible subordinated debenture.

If you have not received your copy of Bangor Punta's Preliminary Prospectus, please do not hesitate to call collect or write us or D. F. King & Co., Inc., 48 Wall Street, New York, N. Y. 10005 (212-269-5550).

Sincerely,

W. T. Piper, Jr.

W. T. PIPER, JR.
Chairman of the Board of Directors and President

EXHIBIT C

BEST COPY AVAILABLE

Piper Aircraft Corporation

IMPORTANT

July 25, 1969

Dear Fellow Shareholder:

On July 19, 1969 you were sent a Prospectus and a Letter of Transmittal from Bangor Punta Corporation in connection with its exchange offer for any and all outstanding shares of common stock of Piper Aircraft Corporation. This offer became effective on July 18 and will expire at 5:00 p.m., New York time, on July 29, unless extended.

Under the terms of its offer Bangor Punta will exchange for each share of Piper common stock the following Bangor Punta securities:

1.2 Common Shares

Warrants to purchase 3.5 Common Shares

$31 principal amount of 8¼% Convertible Subordinated Debentures Due 1994

The members of your Board of Directors (with the exception of Messrs. Gordon and Rochlis, the directors elected by Chris-Craft) sincerely believe that a combination with Bangor Punta is in the best interests of all the shareholders. Your management and Executive Committee have been impressed with the management and operations of Bangor Punta. We strongly recommend that you accept the Bangor Punta offer.

If you desire to take advantage of this offer, you may do so by completing the Letter of Transmittal and forwarding it together with your stock certificates or by having your broker or any bank send a telegram to Irving Trust Company, One Wall Street, New York, New York 10015, giving your name and the number of shares tendered and guaranteeing delivery of stock certificates and a Letter of Transmittal within eight days of notice of acceptance from Bangor Punta. In any case, your communication must be received by Irving Trust Company before 5:00 p.m. on Tuesday, July 29.

On behalf of the Executive Committee and management I would like to express my sincere appreciation for the confidence and loyal support of our many shareholders during this difficult time.

We urge you again to accept the Bangor Punta offer. If you have any questions concerning this offer, please do not hesitate to call us, The First Boston Corporation (212-344-1515) or your banker, broker or investment advisor.

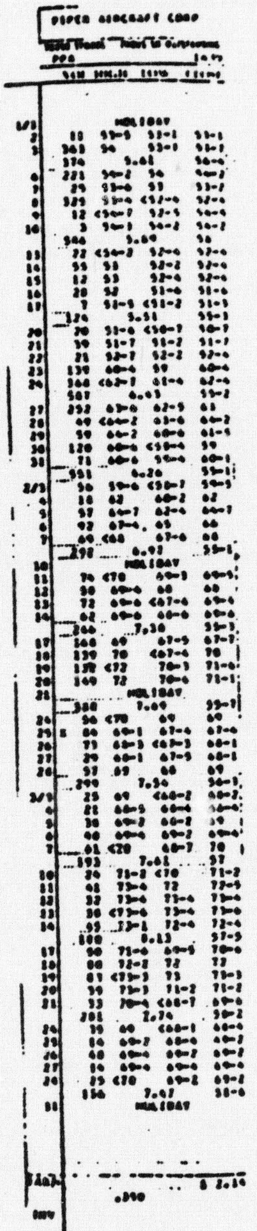
Sincerely,

W.T. Piper, Jr.

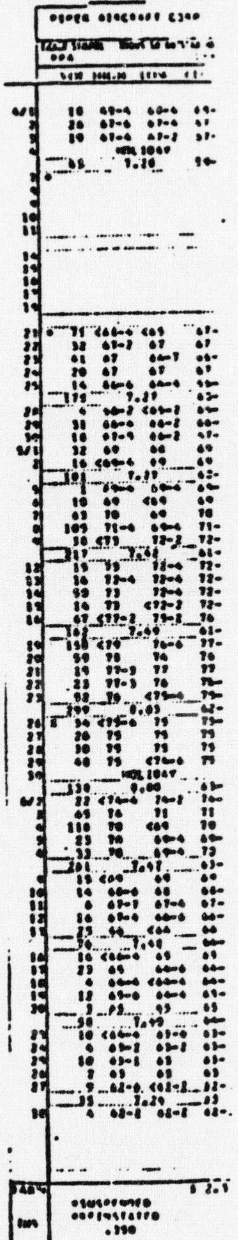
W. T. PIPER, JR.
Chairman of the Board of Directors
and President

EXHIBIT D

1969



1969



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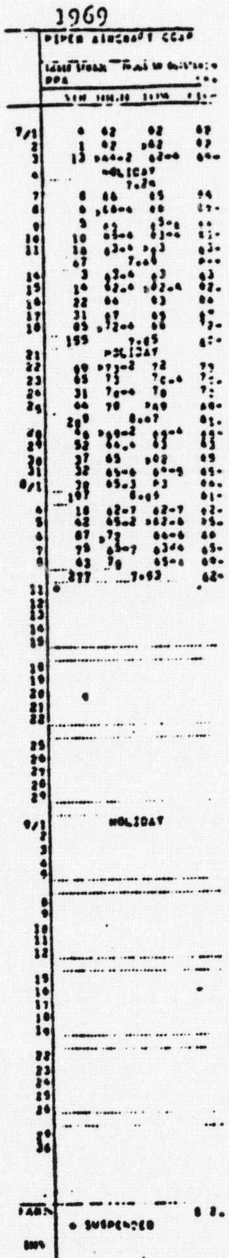

EXHIBIT E

PIPER AIRCRAFT

Philadelphia-Baltimore-Washington Exchange

1969	Volume	Hi	Lo	Close	Change
August 11	4,672	70-1/4	66	69-1/2	+3-3/4
12	619	69-1/2	68	69-1/2	-
13	3,279	73-3/4	70-1/4	73	+3-1/2
14	1,755	77	71	77	+4
15	4,148	78-1/2	76-1/2	78-1/2	+1-1/2
18	3,517	80-3/4	78-1/2	80	+1-1/2
19	1,550	80-1/2	80	80	-
20	1,174	80-3/8	80	80-3/8	+3/8
21	1,166	81	80-1/4	80-1/2	+1/8
22	782				
25	553	80-3/8	80-3/8	80-3/8	+1/8
26	772	80-1/2	80	80-1/2	+1/8
27	143	80	80	80	-1/2
28	193	77	77	77	-3
29	200	75	74	74	-3

** No Trading

EXHIBIT F

FOR THE

SOUTHERN DISTRICT OF NEW YORK

69 CIVIL ACTION FILE NO. [illegible]

SERVED 2-18-69
ON DEFTS' PIPER AIRCRAFT
Pool

FILED
BY
FOR

LILLIAN STULL,

Plaintiff

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM C. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and Piper Aircraft Corporation

Defendant s.

SUMMONS

To the above named Defendant s:

You are hereby summoned and required to serve upon STULL & STULL

plaintiff's attorneys, whose address is 6 East 45th Street, New York, New York, 10017

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

John [illegible]
Clerk of Court.

/s/ P. Mc[illegible]
Deputy Clerk.

Date: February 3 1969

[Seal of Court]

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

EXHIBIT G

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----------------------------------x

LILLIAN STULL,

Plaintiff,

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU,
CHARLES W. POOL, R. K. GRIFFIN, HOWARD
PIPER, THOMAS F. PIPER, WILLIAM T.
PIPER, JR., WILLIAM T. PIPER, GRUMMAN
AIRCRAFT ENGINEERING CORPORATION and
CHRIS-CRAFT INDUSTRIES, INC., and
Piper Aircraft Corporation
Defendants.
-----------------------------------x

Plaintiff, complaining of the defendants, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraph "1" of the complaint, which is alleged on knowledge:

FIRST COUNT

1. (a) That plaintiff is a stockholder of Piper Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.

(b) That plaintiff brings this action representativel on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.

2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

3. That defendant Chris-Craft Industries, Inc. ("Chris-Craft") is a Delaware corporation; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that it engaged in multiple fields of business and was commonly known as a conglomerate; that its stock was and is listed and traded on the NYSE.

4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged or seeks to become engaged in multiple fields of business and was commonly known as or seeks to become a conglomerate, and its stock was and is listed and traded on the NYSE.

5. That the individual defendants are or were directors and officers of Piper who committed the acts of misconduct complained of and caused Piper to engage in such acts and practices, in violation of Section 10b of the Act (15 USC 78j) and Rule 10b-5 of the Securities and Exchange Commission ("SEC") (17 CFR 240. 10b-5) or are chargeable therewith; that said defendants are citizens of States other than Connecticut; that defendant Grumman has aided and abetted the acts and practices of the individual defendants complained of; that defendant Chris-Craft has engaged in acts and practices in violation of Sections

9 and 14 of the Act and Regulation 14 of the SEC (15 USC 78l, n; 17 CFR 240. 14a-2 et seq.).

6. That the jurisdiction of this Court is founded on Section 27 of the Act 915 USC 78aa) and on diversity of citizenship and amount involved exceeding $10,000.00 (28 USC 1332) The acts and practices complained of occurred in whole or part in the Southern District of New York.

7. That prior to the times complained of Piper was a family corporation of William T. Piper, who is presently Chairman of its Board of Directors and his son, William T. Piper, Jr., is presently President of Piper; that Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over Piper over the years by cumulative voting and by the confidence of its stockholders; that its annual meeting for the election of directors was heretofore scheduled for February 4, 1969.

8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper; that Chris-Craft, intending and timing a raid on Piper stock with a view to gain control over Piper at the annual meeting scheduled to be held on February 4, 1969, released the news of its said acquisition on or about January 20, 1969 and it made a tender offer for 300,000 shares of Piper at $65.00 per share; that Piper has traded on the NYSE at prices in excess of $70.00 per share.

9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than $55.00 per share jumped to slightly less than the Chris-Craft tender offer of $65.00 per share.

10. That thereupon the individual defendants, or some of them, with knowledge and participation of all, caused Piper to advise Piper stockholders, including the plaintiff, not to sell to Chris-Craft for the reason, as they stated, that the Chris-Craft tender offer is "inadequate and not in the best interests of Piper stockholders".

11. That thereupon and thereafter the individual defendants continued to solicit proxies for the Piper annual meeting of February 4, 1969 for the purpose and with the intent to defeat the attempt of Chris-Craft to elect one or more directors of Piper at said annual meeting of Piper.

12. That nevertheless and solely to perpetuate or insure their control of Piper and their election to the Piper Board of Directors at Piper's annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper, or gaining control of Piper's Board of Directors at said annual meeting, the individual defendants conspired with defendant Grumman to sell Grumman an offsetting block and identical number of 300,000 of Piper shares from Piper's treasury stock at the identical price of $65.00, and they did so on or about January 30, 1969.

13. That defendants' issue of 300,000 shares of Piper's treasury stock to defendant Grumman at $65.00 per share was for less than their value and was timed and purposed solely to counteract the Chris-Craft objectives and to retain control by the individual defendants in and over Piper, upon an understanding that defendant Grumman would vote such stock for management and perpetuate the individual defendants, or their designees as directors and officers of Piper and Piper and the stock of the plaintiff and other stockholders of Piper has been diluted and depreciated and Piper and its stockholders have been damaged thereby.

14. That the issuance of such 300,000 shares of Piper to defendant Grumman was illegal and invalid and should be cancelled and set aside by the Court.

15. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which they would not otherwise have jurisdiction.

16. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile. The said directors are the very individuals against whom complaint is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.

17. That plaintiff has made no demand upon the stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.

18. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the

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wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class; and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not partie to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

SECOND COUNT

19. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, as if now fully and at length set forth.

20. That as a result of the foregoing, and in the alternative, the defendant Grumman should be compelled to pay an adequate price for such 300,000 shares of Piper as determined by the Court.

THIRD COUNT

21. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, and "15", "16", "17" and "18", as if now fully and at length set forth.

22. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of controlling Piper's Board of Directors, or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view of controlling Piper as a first and initial step to merge Piper into or with Chris-Craft in a self-dealing operation for less than fair value of Piper as an arm or subsidiary of a conglomerate in a remote business.

23. That defendant Grumman furthermore failed to fully and clearly reveal its intended purpose as required by Section 14 of the Act and Rule 14a-5 of the SEC for the solicitation of proxies, on which said defendant's tender offer was conditioned.

24. That defendant Grumman furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.

25. That the election of directors of Piper, a public corporation, for the purpose intended by defendant Chris-Craft is illegal and should be set aside by the Court.

26. That the election of directors of Piper, directly or indirectly by Chris-Craft, by the acts and practices complained of is illegal and should be set aside by the Court.

27. That in the alternative, any such Board of Directors elected by defendant Chris-Craft for the purpose, or in the manner complained of, should be ordered to require Chris-Craft

to pay Piper and its stockholders thefair value of Piper as an arm or subsidiary of Chris-Craft, as a conglomerate in a remote business.

WHEREFORE, plaintiff prays judgment:

(1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders.

(2) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court.

(3) That defendants, jointly and severally, should be directed to account and pay to Piper and/or its stockholders all damages and profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, in the amount of at least $1,000,000.00 together with interest, punitive and exemplary damages as provided by law, andreasonable counsel and accountants' fees and costs.

STULL & STULL
Attorneys for Plaintiff

By: /s/ Richard J. Stull
A member of the firm
Office & P. O. Address
6 East 45th Street
New York, New York, 10017
687-7230

CA307

Affidavit of Paul G. Pennoyer, Jr.

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

LILLIAN STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Lillian Stull

Sworn to before me this
3rd day of February, 1968.

[illegible] A. CONNELLY
Notary Public, State of New York
No. 24-[illegible]
Qualified in Kings County
Commission Expires March 30, 19[illegible]

CA308

CA309

Affidavit of Paul G. Pennoyer, Jr.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION,

Defendants.

AMENDED COMPLAINT

69 Civ. 440

Plaintiff, for her amended complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraph "1", which is alleged on knowledge:

FIRST COUNT

1. (a) That plaintiff is a stockholder of Piper Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.

(b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.

2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed

EXHIBIT H

and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

3. That defendant Chris-Craft Industries, Inc. ("Christ-Craft") is a Delaware corporation; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that it engaged in multiple fields of business and was commonly known as a conglomerate; that its stock was and is listed and traded on the NYSE.

4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.

5. That the individual defendants are or were directors and officers of Piper who committed the acts of misconduct complained of and caused Piper to engage in such acts and practices, in violation of Section 10b of the Act (15 USC 78j) and Rule 10b-5 of the Securities and Exchange Commission ("SEC") (17 CFR 240. 10b-5) or are chargeable therewith; that said defendants are citizens of States other than Connecticut; that defendant Grumman has aided and abetted the acts and practices of the individual defendants complained of; that defendant Chris-Craft was engaged in acts and practices in violation of Sections 9 and 14 of the Act and Regulation 14 of the SEC (15 USC 78i, n; 17 CFR 240. 14a-2 et seq.).

6. That the jurisdiction of this Court is founded on

Section 27 of the Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding $10,000.00 (28 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.

7. That prior to the times complained of Piper was a family corporation of William T. Piper, who is presently Chairman of its Board of Directors and his son, William T. Piper, Jr., is presently President of Piper; that Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over Piper over the years by cumulative voting and by the confidence of its stockholders; that its annual meeting for the election of directors was heretofore scheduled for February 4, 1969.

8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper; that Chris-Craft, intending and timing a raid on Piper stock with a view, among other things, to gain control over Piper at the annual meeting scheduled to be held on February 4, 1969, released the news of its said acquisition on or about January 20, 1969 and it made a tender offer for 300,000 shares of Piper at $65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting, scheduled for February 4, 1969.

9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than $55.00 per share jumped to slightly less than the Chris-Craft tender offer of $65.00 per share. That Piper, prior to the time of the acts and practices complained of, has traded on the NYSE at prices in excess of $70.00 per share.

10. That thereupon the individual defendants, or some of them, with knowledge and participation of all, by letters sent to stockholders and press releases in the public press, wrongfullysought to induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxies to Piper management's nominees, which they solicited for the reason as they stated that Chris-Craft's tender offer is "inadequate and not in the best interests of Piper stockholders"; but they omitted to state what would be an adequate offer, and they omitted to state that their sole objective was to prevent Chris-Craft from electing directors to replace the individual defendants or some of them at Piper's said annual meeting to be held February 4, 1969 and to so perpetuate themselves in office.

11. That thereupon and thereafter the individual defendants continued to solicit proxies for the Piper annual meeting of February 4, 1969 for the purpose and with the intent to defeat the attempt of Chris-Craft to elect one or more directors of Piper at said annual meeting of Piper.

12. That thereupon and thereafter, in furtherance of their plan and scheme to perpetuate or insure their control of Piper and their election to the Piper Board of Directors at Piper's said annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper, or gaining control of Piper's Board of Directors at said annual meeting, the said individual defendants conspired with the defendant Grumman to sell Grumman an offsetting block and identical number of 300,000 shares of Piper, from Piper's treasury stock, at the identical price of $65.00 per share, and defendants, except Chris-Craft, in furtherance of

such conspiracy, procured such sale to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969.

13. That the agreement of the defendants, except Chris-Craft, to issue 300,000 shares of Piper Treasury stock to defendant Grumman at $65.00 per share, was for less than their value and the same was purposed solely to counteract the Chris-Craft objectives, and to retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate, and hold down the value of Piper stock, to the loss and damage of Piper and its stockholders.

14. That said damage and loss to Piper, the plaintiff and other Piper stockholders was caused solely by the acts and practices of the defendants herein complained of and the defendants responsible should be required to account therefor.

15. That the agreement to sell such 300,000 shares of Piper to defendant Grumman, at $65.00 per share, was a manipulation of Piper stock for self-dealing purposes of the individual defendants and Grumman and is unenforceable by defendants.

16. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which they would not otherwise have jurisdiction.

17. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile. The said directors are the very individuals against whom complaint

is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.

18. That plaintiff has made no demand upon the stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.

19. That plaintiff has no adequate remedy at law.

SECOND COUNT

20. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.

21. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class;

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and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

THIRD COUNT

22. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.

C.A. 23. That by reason of the foregoing, defendant Grumman should be compelled to acquire the said 300,000 shares of Piper, which it agreed to purchase, at fair value; that such agreement which the defendants, except defendant Chris-Craft, conspired at for less than fair value should be enforced by decree of the Court upon terms and conditions ordered by the Court.

FOURTH COUNT

24. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, and "16", "17", "18" and "19", as if now fully and at length set forth.

C.A. 25. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of controlling Piper's Board of Directors, or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view of controlling Piper as a first and initial step to merge Piper into or with Chris-Craft in a self-dealing operation for less than fair value of Piper as an arm or subsidiary of a conglomerate in an unrelated business, contrary to the interests of Piper and the position taken by the anti-trust division of the United States Department of Justice in such transactions.

26. That defendant Chris-Craft furthermore failed and omitted, among other things, to clearly reveal its intended purpose as required by Section 14 of the Act and Rule 14a-15 of the SEC for the solicitation of proxies, on which said defendant's tender offer was conditioned.

27. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.

28. That the election of directors of Piper, a public corporation, for the purpose intended by defendant Chris-Craft is illegal and should be set aside by the Court.

29. That the election of directors of Piper, directly or indirectly by Chris-Craft, by the acts and practices complained of is illegal and should be set aside by the Court.

30. That in the alternative, at plaintiff's election, any such Board of Directors elected by defendant Chris-Craft for the purpose, or in the manner complained of, should be ordered to require Chris-Craft to pay Piper and its stockholders the fair value of Piper as an arm or subsidiary of Chris-Craft, as a conglomerate in a remote business.

WHEREFORE, plaintiff prays judgment:

(1) That the Court should declare and determine

the rights and obligations of the defendants to Piper and its stockholders.

(2) An injunction should be granted by the Court, restraining the enforcement of the agreement between Grumman and Piper for the purchase of the said 300,000 shares of Piper, at $65.00 per share; and a take-over of Piper by or merger with Chris-Craft.

(3) Defendant Grumman should be directed to pay fair value for the 300,000 shares of Piper it agreed to purchase and said agreement should otherwise be enforced by decree of the Court.

(4) That defendants, jointly and severally, should be directed to account and pay to Piper and/or its stockholders all damages and profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, in the amount of at least $1,000,000.00 together with interest, punitive and exemplary damages as provided by law.

(5) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court.

(6) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Second Count of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

(7) Granting plaintiff such other, further and

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different relief as to the Court seems just.

(C) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

STULL & STULL
Attorneys for Plaintiff

By: ______RICHARD J. STULL______
A Member of the firm
Office and P. O. Address
6 East 45th Street
New York, New York 10017
687-7230

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

LILLIAN STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

LILLIAN STULL

Sworn to before me this
12th day of March, 1969

[illegible]
Notary Public, State of New York
[illegible]
Qualified in Kings County
[illegible]

CA320

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION,

Defendants.

SECOND AMENDED COMPLAINT

69 Civ. 440

[illegible]

Plaintiff, for her amended complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraph "1", which is alleged on knowledge:

FIRST COUNT

1. (a) That plaintiff is a stockholder of Piper Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.

(b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.

2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed

EXHIBIT I

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and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

3. That defendant Chris-Craft Industries, Inc. ("Christ-Craft") is a Delaware corporation; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that it engaged in multiple fields of business and was commonly known as a conglomerate; that its stock was and is listed and traded on the NYSE.

4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.

5. That the individual defendants are or were directors and officers of Piper who committed the acts of misconduct complained of and caused Piper to engage in such acts and practices, in violation of Section 10(b) of the Act (15 USC 78j) and Rule 10b-5 of the Securities and Exchange Commission ("SEC") (17 CFR 240. 10b-5) or are chargeable therewith; that said defendants are citizens of States other than Connecticut; that defendant Grumman has aided and abetted the acts and practices of the individual defendants complained of; that defendant Chris-Craft was engaged in acts and practices in violation of Sections 9 and 14 of the Act and Regulation 14 of the SEC (15 USC 78i, n; 17 CFR 240. 14a-1 et seq.).

6. That the jurisdiction of this Court is founded on

section 27 of the Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding $10,000.00 (28 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.

7. That prior to the times complained of Piper was a family corporation of William T. Piper, who is presently Chairman of its Board of Directors and his son, William T. Piper, Jr., who is presently President of Piper; that Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over Piper over the years by cumulative voting and by the confidence of its stockholders; that its annual meeting for the election of directors was heretofore scheduled for February 4, 1969, with the management slate of [illegible] composed of members of the Piper family and their associates.

8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper; that Chris-Craft, intending and timing a raid on Piper stock with a view, among other things, to gain control over Piper at the annual meeting scheduled to be held on February 4, 1969, released the news of its said acquisition on or about January 20, 1969 and it made a tender offer for 300,000 shares of Piper at $65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting, scheduled for February 4, 1969.

9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than $55.00 per share jumped to slightly less than the Chris-Craft tender offer of $65.00 per share. That Piper, prior to the time of the acts and practices complained of, has traded on the NYSE at prices in excess of $70.00 per share.

10. That thereupon the individual defendants, or some of them, with knowledge and participation of all, by letters sent to stockholders and press releases in the public press, wrongfullysought to induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxies to Piper management's nominees, which they solicited for the reason as they stated that Chris-Craft's tender offer is "inadequate and not in the best interests of Piper stockholders"; but they omitted to state what would be an adequate offer, and they omitted to state that their sole objective was to prevent Chris-Craft from electing directors to replace the individual defendants or some of them at Piper's said annual meeting to be held February 4, 1969 and to so perpetuate themselves in office.

11. That thereupon and thereafter the individual defendants continued to solicit proxies for the Piper annual meeting of February 4, 1969 for the purpose and with the intent to defeat the attempt of Chris-Craft to elect one or more directors of Piper at said annual meeting of Piper.

12. That thereupon and thereafter, in furtherance of their plan and scheme to perpetuate or insure their control of Piper and their election to the Piper Board of Directors at Piper's said annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper, or gaining control of Piper's Board of Directors at said annual meeting, the said individual defendants conspired with the defendant Grumman to sell Grumman an offsetting block and identical number of 300,000 shares of Piper, from Piper's treasury stock, at the identical price of $65.00 per share, and defendants, except Chris-Craft, in furtherance of

such conspiracy, procured such sale to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969.

13. That the agreement of the defendants, except Chris-Craft, to issue 300,000 shares of Piper Treasury stock to defendant Grumman at $65.00 per share, was for less than their value and the same was purposed solely to counteract the Chris-Craft objectives, and to retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate, and hold down the value of Piper stock, to the loss and damage of Piper and its stockholders.

14. That said damage and loss to Piper, the plaintiff and other Piper stockholders was caused solely by the acts and practices of the defendants herein complained of and the defendants responsible should be required to account therefor.

15. That the agreement to sell such 300,000 shares of Piper to defendant Grumman, at $65.00 per share, was a manipulation of Piper stock for self-dealing purposes of the individual defendants and Grumman and is unenforceable by defendants.

16. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which they would not otherwise have jurisdiction.

17. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile. The said directors are the very individuals against whom complaint

is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.

18. That plaintiff has made no demand upon the stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.

19. That plaintiff has no adequate remedy at law.

SECOND COUNT

20. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.

21. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class;

and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

THIRD COUNT

22. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "10", both inclusive, as if now fully and at length set forth.

23. That by reason of the foregoing, defendant Grumman should be compelled to acquire the said 300,000 shares of Piper, which it agreed to purchase, at fair value; that such agreement which the defendants, except defendant Chris-Craft, conspired at for less than fair value should be enforced by decree of the Court upon terms and conditions ordered by the Court.

FOURTH COUNT

24. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, and "16", "17", "18" and "19", as if now fully and at length set forth.

25. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of controlling Piper's Board of Directors, or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view

into or with Chris-Craft in a self-dealing operation for less than fair value of Piper as an arm or subsidiary of a conglomerate in an unrelated business, contrary to the interests of Piper and the position taken by the anti-trust division of the United States Department of Justice in such transactions.

26. That defendant Chris-Craft furthermore failed and omitted, among other things, to clearly reveal its intended purpose as required by Section 14 of the Act and Rule 14a-15 of the SEC for the solicitation of proxies, on which said defendant's tender offer was conditioned.

27. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.

28. That the election of directors of Piper, a public corporation, for the purpose intended by defendant Chris-Craft is illegal and should be set aside by the Court.

29. That the election of directors of Piper, directly or indirectly by Chris-Craft, by the acts and practices complained of is illegal and should be set aside by the Court.

30. That in the alternative, at plaintiff's election, any such Board of Directors elected by defendant Chris-Craft for the purpose, or in the manner complained of, should be ordered to require Chris-Craft to pay Piper and its stockholders the fair value of Piper as an arm or subsidiary of Chris-Craft, as a conglomerate in a remote business.

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FIFTH COUNT

31. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "21", both inclusive, as if now fully and at length set forth.

32. That the individual defendants, in furtherance of their plan and scheme to perpetuate themselves as officers and/or directors of Piper, or insure their continued control of Piper, and to defeat and prevent defendant Chris-Craft from gaining control of Piper, and to dilute the percentage of Piper's shares held by Chris-Craft and to increase the total number of Piper's shares that Chris-Craft would need to successfully merge Piper into or with Chris-Craft, and to defeat and prevent Chris-Craft from merging Piper into or with Chris-Craft, and in furtherance of the conspiracy hereinabove alleged, did wrongfully issue or transfer approximately 470,000 shares of Piper to the United States Concrete Pipe Company of Florida ("U.S. Concrete") and Southply, Inc. ("Southply"), or have agreed to do so.

33. That the issuance or transfer of such Piper shares to U.S. Concrete and Southply, or the agreement therefor, failed to comply with the rules of the NYSE; that defendants acted without stockholder approval; that the acts and practices of said defendants have caused the NYSE to suspend trading in all of Piper shares and have caused or may cause the delisting of Piper shares on the NYSE.

34. That the listing of Piper shares on the NYSE is a valuable property right of Piper and its stockholders.

35. That in addition thereto and as a result of defendants acts and practices complained of, the value of the shares of Piper held by plaintiff and other stockholders similarly situated has been or will be diluted, in that Piper

did not or will not receive fair value for the transfer of such shares to U.S. Concrete and Southply.

36. That by reason of the foregoing, said defendants have caused great and irreparable loss and damage to Piper, the plaintiff, and other stockholders of Piper similarly situated.

WHEREFORE, plaintiff prays judgment:

(1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders.

(2) An injunction should be granted by the Court, restraining the enforcement of the agreement between Grumman and Piper for the purchase of the said 300,000 shares of Piper, at $65.00 per share; and a take-over of Piper by or merger with Chris-Craft.

(3) Defendant Grumman should be directed to pay fair value for the 300,000 shares of Piper it agreed to purchase and said agreement should otherwise be enforced by decree of the Court.

(4) That defendants, jointly and severally, should be directed to account and pay to Piper and/or its stockholders all damages suffered by them, including profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, in the amount of at least $1,000,000.00 together with interest, punitive and exemplary damages as provided by law.

(5) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if

held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court.

(6) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Second and Fifth Counts of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

(7) Granting plaintiff such other, further and different relief as to the Court seems just.

(8) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

STULL & STULL
Attorneys for Plaintiff

By: Robert A Stull
A Member of the firm
Office & P. O. Address.
6 East 45th Street
New York, New York 10017
687-7230

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

LILLIAN STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Lillian Stull

Sworn to before me this
7th day of April, 1969

Gwendolyn A. Connelly

GWENDOLYN A. CONNELLY
Notary Public, State of New York
No. 24-5734375
Qualified in Kings County
Commission Expires March 30, 1970

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION, and BANGOR PUNTA CORPORATION,

Defendants.

AMENDED AND SUPPLEMENTAL COMPLAINT

69 Civ. 440

Plaintiff, for her amended and supplemental complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraphs "1" and "24", which are alleged on knowledge:

FIRST COUNT

1. (a) That plaintiff is a stockholder of Piper Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.

(b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.

2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed

EXHIBIT J

and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

3. That defendants Chris-Craft Industries, Inc. ("Chris-Craft") and Bangor Punta Corporation ("Bangor Punta") are Delaware corporations; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that both Chris-Craft and Bangor Punta engaged in multiple fields of business and were commonly known as conglomerates; that the shares of both were and are listed and traded on the NYSE.

4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.

5. That the individual defendants are or were at the times complained of directors and officers of Piper, and they and defendant Chris-Craft committed the acts of misconduct complained of and the individual defendants caused Piper to engaged in such acts and practices, in violation of Section 10(b) and 14(a) of the Act (15 USC 78j and n) and Rule 10b-5 and Regulation 14a-1, *et seq*. of the Securities and Exchange Commission ("SEC") (17 CFR 240. 10b-5 and 14a-1 *et seq* or are chargeable therewith; that defendants Grumman and Bangor Punta aided and abetted the acts and practices of the individual defendants complained of; that defendants are citizens of States other than Connecticut.

6. That the jurisdiction of this Court is founded on Section 27 of the Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding $10,000.00 (28 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.

7. That prior to the times complained of Piper was a "family" corporation, so called, of William T. Piper, who was Chairman of its Board of Directors, and his son William T. Piper, Jr., was its President. That Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over and dominated Piper over the years by cumulative voting and by the confidence of its stockholders. That its annual meeting for the election of directors was heretofore scheduled for February 4, 1969, with the management slate of directors composed of members of the Piper family and their nominees. That any change in the Board of Directors and officers of Piper since the acts and practices complained of result from the misconducts complained of.

8. That in and about the early part of January, 196 or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper, which was in excess of 10% of Piper's common stoc Seeking to gain control of Piper's Board of Directors at the annua meeting scheduled to be held on February 4, 1969, and thereafter to merge Piper with Chris-Craft, Chris-Craft released the news of its said acquisition on or about January 20, 1969, and it made a tender offer for 300,000 additional shares of Piper at $65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting.

9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than $55.00 per share jumped to slightly less than the Chris-Craft tender offer of $65.00 per share. That Piper, prior to the time of the acts and practices complained of has traded on the NYSE at prices in excess of $70.00 per share; and the true value of its shares was and is in excess of $100.00 per share, as defendants know or should know.

10. That thereupon and thereafter, the individual defendants, being the officers and directors of Piper and in control of Piper, fearing that they would lose control of Piper and its Board of Directors, and seeking to prevent Chris-Craft from acquiring shares and proxies of and from Piper shareholders, which Chris-Craft needed to control the Board of Directors of Piper and/or to combine or merge Piper with Chris-Craft, embarked upon a plan, scheme, and conspiracy to perpetuate and insure their control over Piper and its Board of Directors, and to prevent Chris-Craft from electing directors, as was Chris-Craft's purpose to do, at the annual meeting of Piper on February 4, 1969, and from otherwise gaining control of Piper.

11. That in furtherance of such plan and scheme, in and about January, 1969, and since, by use of the means or instrumentality of interstate commerce, or of the mails, or the facilities of the NYSE, the individual defendants made untrue and unclear statements of material facts and omitted to clearly state material facts necessary in order to make the statements they made, in light of the circumstances under which they were made, not misleading in connection with the purchases and sale of Piper shares, and the solicitation of proxies for the aforesaid annual meeting of Piper.

12. That among other things, the said individual defendants, at the cost and expense of Piper in excess of $10,000.00, wrongfully advised and solicited, and sought to and did wrongfully induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft and instead, to retain their shares and execute proxies for said annual meeting in favor of management's slate, upon the representations, among others, that Chris-Craft's tender offer was "inadequate" and not in the best interests of Piper stockholders; that "NOT ONE OF YOUR BOARD OF DIRECTORS OR MANAGEMENT WILL TENDER HIS SHARES", which defendants emphasized to induce stockholders of Piper to follow the alleged lead of the Board of Directors and Management and they misleadingly implied that all members of the Board of Directors and Management held shares, which was untrue; and they impliedly represented that "Piper stock is worth substantially more than it /Chris-Craft/ is offering". Said individual defendants in order to and they did delay the purchase and sale of Piper shares by and misled Piper shareholders and they artificially influenced the market in Piper shares, by omitting to state any basis for such representation of inadequacy, and whether they or Piper had procured an independent evaluation and by whom, and what would be an adequate offer; that their true and sole objective was to perpetuate their domination and control of Piper, continue themselves in office and prevent Chris-Craft from electing directors to replace the individual defendants, or some of them, as Piper directors, at Piper's said annual meeting to be held February 4, 1969, and from gaining control of the Piper Board of Directors and/or combining or merging Piper with Chris-Craft; and they omitted to state that the alleged inadequacy of Chris-Craft's offer to Piper shareholders was not, in truth and fact, the reason they advised Piper shareholders not to sell their Piper shares to Chris-Craft.

13. That furthermore, to accomplish their said plan and scheme, the said individual defendants delayed and misled Piper shareholders and artificially influenced the market in Piper shares by wrongfully conspiring with the defendant Grumman to and they did cause Piper to sell Grumman an off-setting block and identical number of 300,000 shares of Piper, from Piper's unissued or treasury stock, at the identical price of $65.00 per share offered by Chris-Craft and said defendants procured said sale to Grumman to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969. That furthermore said defendants wrongfully omitted to fully and fairly disclose the terms of such transaction to Piper shareholders while advising and since maintaining to Piper shareholders, and in soliciting their proxies, that Chris-Craft's tender offer was "inadequate" all to the loss and damage to Piper and its shareholders, as said defendants well knew or should have known.

14. That furthermore, the defendants, except Chris-Craft and Bangor Punta, failed to disclose to Piper shareholders t said sale of 300,000 Piper shares to Grumman was part and parcel of an agreement or understanding between the individual defendants and Grumman which provided or contemplated, among other things, an exchange of shares by Piper shareholders for and a combination, consolidation, or merger of Piper with Grumman, or which otherwise would continue, perpetuate, and insure the domination and control of Piper's Board of Directors and officers by the individual defendants, and Grumman undertook and agreed to aid the individual defendants in blocking the purchase of Piper shares by Chris-Craft, and to artificially depress the market in Piper shares, and t sell such offsetting block of Piper shares to Grumman at an inadequate price and they did within the intendment of the Act.

15. That following and as a result of the institution of the instant action, the said individual defendants

terminated, prior to settlement and closing of the aforesaid sale of said off-setting block of 300,000 shares of Piper's unissued or treasury stock to defendant Grumman at $65.00 per share and they wrongfully purported to excuse Grumman of and from the obligations of Grumman, and misconduct, without the knowledge and approval of Piper shareholders, to the further damage of Piper and its shareholders, as said individual defendants well knew or should have known.

16. That meanwhile, in furtherance of their aforementioned plan and scheme and to wrongfully increase the total number of Piper shares that Chris-Craft would need to successfully combine or merge Piper into or with Chris-Craft and to defeat and prevent Chris-Craft from combining or merging Piper with Chris-Craft and to dilute the percentage of Piper shares held by Chris-Craft, as well as the percentage of other Piper shareholders who might independently vote their Piper shares for Chris-Craft, or otherwise, the individual defendants caused Piper to replace their transaction in Piper shares with Grumman by an acquisition they caused Piper to make or agree to make with the United States Concrete Pipe Company of Florida ("U.S. Concrete") for all of its shares, and with Southply, Inc. ("Southply") for 99% of its shares, and they wrongfully agreed to issue or transfer approximately 470,000 shares of Piper to U.S. Concrete and Southply in consideration therefor, without the knowledge and approval of the NYSE and Piper shareholders, and they did. That such acquisition or transaction was accomplish without making a full, true and reasonable independent evaluation of the same, but instead said defendants wrongfully considered their need to defeat the Chris-Craft plans to take over Piper, alone. That stockholder approval of such acquisition was required by the Rules of the NYSE.

17. That the sale and issuance or transfer of approximately 470,000 shares of Piper to U.S. Concrete and Southply, or the agreement therefor, additionally failed to comply with the rules of the NYSE; that the individual defendants and those responsible therefor caused the NYSE to suspend all trading in Piper shares on or about April 3, 1969 to the damage of Piper and its shareholders of the valuable property right of Piper and its shareholders to trade on the NYSE and the credit and image of Piper was also impaired and damaged thereby; that said suspension was lifted more than two weeks thereafter when it was publicly announced that the sale or transfer of Piper shares to and the acquisition by Piper of U.S. Concrete and Southply was somehow rescinded, likewise without the knowledge and consent of Piper shareholders, all to the further loss and damage of Piper and its shareholders. That said defendants and those responsible therefor artificially affected and depressed the market in Piper shares on the NYSE during that entire period in that trading in Piper securities was and remained suspended, and indeed the NYSE had referred defendants' misconduct to the SEC for the purpose of delisting Piper shares altogether, to Piper's damage.

18. That thereupon and in furtherance of their aforesaid conspiracy and almost simultaneously with the termination or rescission of the aforesaid acquisition of U.S. Concrete and Southply by Piper, the individual defendants sold or agreed to the sale of their own shares and shares they controlled in Piper, constituting approximately 30% of the common stock of Piper to the defendant Bangor Punta Corporation ("Bangor Punta"), as a first step in a wrongful and self-dealing agreement for a consolidation or merger of Piper with Bangor Punta for an inadequate consideration; that the individual defendants also

caused Piper to make an agreement to combine or merge Piper with Bangor Punta in face of one of their earlier announcements (in opposing Chris-Craft's tender offer referred to in paragraph "8" hereof) in the public press, made by or through the defendant William T. Piper, Jr., President of Piper, that Piper did not have any interest in Chris-Craft's move and that "we aren't interested in any mergers or associations or anything like this".

19. That the sale of defendants' shares referred to in paragraph "18" hereof and the consolidation or merger of Piper with Bangor Punta, is additionally wrongful in that it is purposed to perpetuate the individual defendants in control of Piper and to continue them as officers and directors of Piper to continue to receive the benefits and emoluments of their offices and to dominate and control the management of Piper and prevent Chris-Craft from electing directors to replace the individual defendants as directors and officers of Piper and acquire Piper by an exchange of shares, consolidation and merger of Piper with Chris-Craft, to all of which Bangor Punta agreed.

20. That the individual defendants, aided and abetted by Grumman and Bangor Punta, in furtherance of their said plan and scheme in which Grumman and Bangor Punta joined and participated, wrongfully manipulated the shares of Piper, in connection with the sale of Piper shares to and consolidating and merger agreements made first with Grumman, then with U.S. Concrete and Southply and then with Bangor Punta, all for their self-interest and self-dealing purposes, in fraud and deceit of Piper and its shareholders, and they impaired and depressed the market in Piper shares for their own profit, and agreed to sell same to Grumman and then to Bangor Punta at inadequate prices, and they wasted an misappropriated the assets of Piper, diluted the value of its shares in and by the purchase and sale agreements aforementioned,

violated their fiduciary obligations and duties to Piper and its shareholders.

21. That the proxy materials of the said individual defendants, were wrongfully purposed to induce the plaintiff and other shareholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxies to the Piper management's nominees, which defendants continued to solicit in pursuance of their aforementioned plan and scheme to perpetuate and insure their control of Piper and their election to the Piper Board of Directors at Piper's said annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper and gaining control of Piper's Board of Directors at said annual meeting and since, and to defeat and prevent Chris-Craft from combining, consolidating or merging Piper with Chris-Craft; that the investment agreement and sale of 300,000 shares of Piper unissued or treasury shares to Grumman at $65.00 per share, was for less than their value and was purposed solely to counteract the Chris-Craft objectives and retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares; that the investment agreement and sale of approximately 470,000 shares of Piper to U.S. Concrete and Southply upon the acquisition of U.S. Concrete and Southply by Piper, was for less than the true value of such Piper shares and was purposed solely to counteract the Chris-Craft objectives and retain control in and over Piper

by the individual defendants, upon an understanding with the defendants U.S. Concrete and Grumman that the recipients of such Piper shares would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares; that the agreement and sale of the shares of Piper owned or controlled by the individual defendants to Bangor Punta was purposed solely to counteract and defeat the Chris-Craft objectives for the sole benefit of the individual defendants, and to sell out Piper to Bangor Punta at a wholly inadequate price and one that defendants would not consider had they not been hard pressed by Chris-Craft's wholly inadequate proposals; that the wrongful and wholly selfish and self-dealing acts and practices of the defendants have caused loss and damage to Piper and its shareholders, the amounts of which can only be determined by this action.

22. That the acts and practices of the individual defendants, and of Grumman and Bangor Punta, aforementioned, were purposed to deceive and defraud Piper and its shareholders and Piper and its shareholders were defrauded and damaged thereby.

23. That said damage and loss to Piper, the plaintiff and other Piper shareholders was caused solely by the acts and practices of the defendants and the defendants responsible should be required to account therefor.

24. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.

25. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be

futile. The said directors are the very individuals against whom complaint is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.

26. That plaintiff has made no demand upon the stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholder to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.

27. That plaintiff has no adequate remedy at law.

SECOND COUNT

28. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "27", inclusive, as if now fully and at length set forth.

29. That the sale of 300,000 shares of Piper to Grumman at $65.00 per share was grossly and unconscionably inadequate; and Grumman well knew or should have known that such amount was grossly and unconscionably inadequate.

30. That the agreement of Bangor Punta to acquire Piper by exchange of shares, by consolidation or merger, or otherwise, contemplates payment by Bangor Punta to Piper's shareholders of approximately $80.00 per share; that such amount is grossly and unconscionably inadequate; and Bangor Punta well knew or should have known that such amount was grossly and unconscionably inadequate.

31. That by reason of the foregoing, defendants Grumman and/or Bangor Punta should be compelled to pay fair value for the shares of Piper; that the agreements between Piper and/or the individual defendants with Grumman and/or Bangor Punta purposed to enable Grumman and/or Bangor Punta to acquire Piper and/or the Piper shares of and from Piper shareholders for less than fair value should be enjoined by order of the Court, and said defendants required to pay fair value to Piper and/or its shareholders; that in the alternative, the damages of Piper and its shareholders as a result of the misconduct in which Grumman and Bangor Punta aided and abetted the individual defendants and in which they participated should be determined and judgment rendered in accordance with such determination.

THIRD COUNT

32. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "27", inclusive, as if now fully and at length set forth.

33. That at the time of Chris-Craft's tender offer, Chris-Craft well knew or should have known that the market price of the shares of Piper was depressed and furthermore that its tender offer for Piper shares was unconscionably and grossly below their true value.

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34. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of taking over and controlling Piper's Board of Directors or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view to controlling Piper as a first and initial step to merge Piper into or with Chris-Craft at less than the fair value of Piper, as an arm or subsidiary of a conglomerate in an unrelated business, contrary to the interests of Piper and its shareholders, and to the detriment and damage of Piper and its shareholders.

35. That the defendant Chris-Craft's tender offer was calculated to vote the shares of Piper to be acquired under and by virtue of such tender offer without payment and without disclosure that Chris-Craft intended not to pay therefor prior to Chris-Craft's voting such shares so tendered at the said annual meeting of Piper on February 4, 1969; that Chris-Craft failed and omitted to clearly disclose to Piper shareholders that it would not pay for the shares tendered until after it voted the accompanying proxies at said annual meeting; that the omission of Chris-Craft to clearly state its aforesaid purpose was in truth and fact because Chris-Craft had no knowledge that its tender offer would be successful and it was Chris-Craft's purpose to gauge the success of such tender offer before and without payment and without informing Piper shareholders they would not be paid prior to the said annual meeting of Piper.

36. That the omission of Chris-Craft to clearly reveal that it would not pay Piper shareholders for shares tendered pursuant to such tender offer until after it voted such shares at the annual meeting of Piper scheduled to be held on February 4, 1969; that Piper shares were worth far in excess of Chris-Craft's tender offer; and that the true, undisclosed and sole purpose of such Chris-Craft tender

offer was to oust its management and consolidate or merge Piper with Chris-Craft, constitute the wilful violation of Sections 10(b) and 14(a) of the Act and Rule 10b-5 and Regulation 14a-1, et seq of the SEC for the solicitation of Piper shares and proxies on which defendant's tender offer was conditioned. Moreove some or all shareholders of Piper would not have accepted Chris-Craft's tender offer and given Chris-Craft proxies for the annual stockholders meeting of February 4, 1969 had they known of Chris-Craft's purpose to vote their shares of Piper for Chris-Craft's purposes before Chris-Craft paid for the same.

37. That Chris-Craft's tender offer referred to in paragraph "8", above, was grossly and unconscionably inadequate and was purposed to acquire Piper and to merge and consolidate Piper with Chris-Craft at a cost to Chris-Craft of not more than $65.00 per share or its equivalent, which Chris-Craft failed to reveal to Piper shareholders in such tender offer and in its solicitation of proxies; that by a second tender offer, Chris-Craft has since that time (but prior to the proposal of the individual defendants, conspiring with Bangor Punta to block the plans of Chris-Craft, proposed to consolidate or merge Piper with Chris-Craft on the basis of an exchange of shares and warrants to purchase the new Chris-Craft stock (i.e., Chris-Craf stock subsequent to merger of Piper) which was again grossly and unconscionably inadequate and of little value, if any, above Chris-Craft's aforesaid tender offer of $65.00 per share and which may well be less than Chris-Craft's first said tender offer.

38. That since the institution of the instant action, and since its proposal to exchange Piper shares for Chris-Craft shares and warrants, as alleged in paragraph "37", above, Chris-

Craft has increased [illegible] by $[illegible]0.00 per share, but it did so in manner purposed to confuse and mislead Piper shareholders, to conceal prior inadequacy, and said Chris-Craft offer yet remains unconscionably and grossly inadequate.

39. That on May 21, 1969, to induce tenders by Piper shareholders under its above mentioned second tender offer, Chris-Craft advertised in the public press that it would pay tendering Piper shareholders interest at the rate of $5.36 per annum to the "Effective Date of Exchange", on each share of Piper tendered, but it omitted to say on what amount it would pay interest. Moreover, Chris-Craft omitted to clearly disclose that it was not obligated to pay any interest whatsoever, however long it might postpone the "Effective Date of Exchange", if it transpired that "a minimum of 80,000"shares of Piper, specified in said second tender offer, are not tendered.

40. Furthermore, in said advertisement of May 21, 1969, Chris-Craft omitted to clearly disclose that if Piper shareholders tendered less than "a minimum of 80,000" shares of Piper, Chris-Craft, at its option, could accept such lesser number of shares, in which event, Piper shareholders who thus tendered their shares to Chris-Craft would be placed at disadvantage in the event of an offer from Bangor Punta, or others, superior to that of Chris-Craft, or in the event the market price exceeded the Chris-Craft tender offer.

41. That meanwhile and on or about May 9, 1969, to preface, or fortify and further the success of Chris-Craft's second tender offer, Chris-Craft announced in the public press that "Chris-Craft's legal counsel considers the announcement [of the Piper-Bangor Punta agreement and any merger attempt] 'in violation of the Federal securities statues [sic] and

Securities and Exchange Commission rules' ", which was an improper, wrongful and purposed method of inducing the tender of Piper shares to Chris-Craft until such alleged announcement had actually been declared to be such a violation by due process, the Securities and Exchange Commission, or adjudicated to that effect.

42. That defendant Chris-Craft has purchased Piper shares from Piper shareholders at grossly and unconscionably inadequate prices.

43. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.

44. That by the acts and practices of Chris-Craft aforementioned, Chris-Craft procured the election of one or more directors at the Piper annual meeting of February 4, 1969; that such election is illegal and should be set aside by the Court.

45. That Chris-Craft has procured a list of stockholders of Piper by violation of law and its solicitation of share and proxies by reason of such violation of law has caused great damage to Piper and its shareholders and has enabled Chris-Craft to purchase Piper shares from Piper shareholders at grossly and unconscionably inadequate prices and Chris-Craft continues to do s

46. That by reason of the foregoing, Chris-Craft shoul be directed and compelled to pay Piper and its shareholders the fair value of Piper shares acquired and to be acquired by Chris-Craft and to pay Piper and its shareholders all damages and losse sustained by them as a result of the matters above set forth.

FOURTH COUNT

47. Plaintiff repeats and reiterates the allegations

of paragraphs "1" to "45", both inclusive, as if fully and at length set forth.

48. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class; and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

49. That as a result of the acts and practices complained of defendant Chris-Craft has purchased Piper shares from Piper's shareholders at grossly and unconscionably inadequate prices, and it continues and intends to continue to do so.

50. That while Chris-Craft's take-over bid for Piper has been and remains grossly and unconscionably inadequate, and in violation of law, Bangor Punta has announced, likewise in the public press, and wilfully to mislead Piper shareholders, that

> "Bangor Punta said the securities package it will offer for shares held outside the family is worth, in the judgment of First Boston Corp., not less than $80 per Piper share. The Piper

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> family will receive 'no more per share' than other holders are offered, Bangor Punta said."

51. That Bangor Punta likewise intends to buy Piper shares of and from Piper shareholders at grossly and unconscionably inadequate prices, or wrongfully merge Piper into Bangor Punt

52. That plaintiff was a shareholder of Piper at all the times of the acts and practices complained of.

53. That at the time of the acts and practices complained of Piper shares were and are reasonably worth in excess of the amounts which defendants Chris-Craft and Bangor Punta have offered or intend to offer Piper shareholders; that said Piper shares were and are reasonably worth in excess of $100 per share.

WHEREFORE, plaintiff prays judgment:

(1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders, and defendants' acts to be in violation of law.

(2) An injunction should be granted by the Court restraining the enforcement of any and all agreements between or among the defendants which purport to sell or exchange Piper shares for the shares of any defendant, or combine, or consolidat or merge Piper with any defendant at less than fair value of Piper's shares as determined by the Court.

(3) That an injunction should be granted restraining a take-over of Piper by or merger with Chris-Craft.

(4) That any take-over by or merger of Piper with Bangor Punta should also be restrained except for fair value to Piper and its shareholders, and payment of their damages.

(5) That defendants, jointly and severally, should

be directed to account and pay to Piper and/or its stockholders all damages suffered by them, including profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, together with interest, punitive and exemplary damages as provided by law.

(6) That the agreement of Grumman to purchase 300,000 sha of Piper should be enforced, but at fair value; that in the alternative, the damages of Piper and its shareholders resulting from such transaction should be determined by the Court.

(7) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court, and the proxies of management and Chris-Craft declared null and void.

(8) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Fourth Count of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

(9) Granting plaintiff such other, further and different relief as to the Court seems just.

(10) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

STULL & STULL
Attorneys for Plaintiff

By:____________________
A Member of the Firm
Office & P. O. Address
6 East 45th Street
New York, New York 10017

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

LILLIAN STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing amended and supplemental complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Lillian Stull

Sworn to before me this
29th day of May, 1969
Gwendolyn A. Connelly

GWENDOLYN A. CONNELLY
Notary Public, State of New York
No. 24-573[illegible]575
Qualified in Kings County 70
Commission Expires March 30, 1970

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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LILLIAN STULL,

Plaintiff,

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION,

Defendants.
---x

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

RICHARD J. STULL, being duly sworn, deposes and says:

1. I am an attorney of the bar of this Court and a member of the firm of Stull & Stull, the attorneys for the plaintiff in the above entitled action. This is a stockholder's derivative and representative class action, involving Piper Aircraft Corporation ("Piper"), as the target of take-over attempts by alleged misconducts of the defendants above named. I have studied the record information and have knowledge of the facts and circumstances of the several counts of this action. The plaintiff is my wife. I advised her investment in her Piper shares here involved many years ago, and since.

2. This affidavit is made in support of an application to file an amended and supplemental complaint herein, pursuant to FRCP Rules 15(a), (b) and 21, by adding as an additional defendant Bangor Punta Corporation, a Delaware corporation and directing the issuance of a supplemental summons, based upon additional charges of misconduct against the defendants, mostly accruing since the commencement of the action, and some of which

have since come to light. The original of the proposed amended and supplemental complaint will be submitted herewith.

3. Plaintiff's action is based upon alleged violations of Sections 10(b) and 14(a) of the Securities Exchange Act of 1934, and Rule 10b-5 and Regulations 14a-1, et seq. of the Securities and Exchange Commission, and for common law fraud and deceit. Plaintiff alleges a diversity of citizenship. The amount involved exceeds $10,000.00.

4. For many years, prior to January 1969, the Piper family controlled Piper and dominated its Board of Directors and its management. Piper's annual meeting was scheduled for February 4, 1969. The individual defendants and their nominees and associates comprised the management slate of directors proposed for the oncoming annual meeting.

5. In January, 1969, it became known to the Piper management that defendant Chris-Craft Industries, Inc. ("Chris-Craft") acquired a control interest in Piper, being more than 10% of its common stock, and Chris-Craft sought to elect four members of the Piper Board of Directors, for the purpose of controlling Piper for a take-over of Piper by Chris-Craft, which Chris-Craft planned to do. On or about January 20, 1969, a tender offer for 300,000 shares of Piper, at $65.00 per share, was publicly made by Chris-Craft.

6. Surprised by the strength of Chris-Craft and the inadequacy of said tender offer, and to perpetuate their own control of Piper and prevent the take-over of Piper by Chris-Craft, Piper management embarked upon a series of wrongful acts, some prior to this suit and some subsequent. These acts culminated

with a consent injunction decree, in an action instituted by the SEC, in the District Court, in Washington, as a result of which it is believed, and hoped, that the misconducts of Piper and its management will now cease.

7. By public releases in the press, by solicitation of proxies from Piper shareholders, and by use of other means and instrumentalities of interstate commerce, the defendants have made untrue statements of material facts and have omitted to state, and to clearly state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in connection with the sale of Piper securities, investment agreements and planned mergers, and in connection with defendants' proxy solicitations of Piper shareholders. As a result thereof, plaintiff charges the defendants with violations of the Securities and Exchange Act and common law fraud, all as more fully alleged in plaintiff's proposed amended and supplemental complaint sought to be served and filed herein.

8. Among other things, Piper management, in soliciting management proxies for the annual Piper meeting, originally scheduled to be held February 4, 1969, and to defeat Chris-Craft's tender offer, aforementioned, telegraphed shareholders, on Sunday, January 26, 1969, stating "The Board of Directors of Piper Aircraft Corporation strongly urges you not to tender your Piper shares to Chris-Craft Industries, Inc.". They followed this up with a letter in which they represented to shareholders that Chris-Craft's tender offer is "inadequate and not in the best interests of Piper stockholders", among other representations of equal and even greater import (Exh. "A", annexed), but they omitted to state any basis for their

representation of inadequacy, and whether they or Piper had procured an independent evaluation and by whom, and what would be an adequate offer. Instead, said defendants sought to excite Piper shareholders and lure them to aid management's undisclosed scheme and sole objective to perpetuate their control of the directors and officers of Piper by blocking Chris-Craft's tender offer. They also omitted to state that their purpose was to prevent Chris-Craft from replacing them as directors at the Annual Meeting of February 4, 1969, and that they had no concern for the "best interests" of Piper shareholders in their controversy with Chris-Craft, solely to perpetuate their offices.

9. In furtherance of their plan and scheme to block Chris-Craft and to perpetuate their own control of Piper's directors and officers, the individual defendants, then in control of Piper's management, caused Piper to sell an offsetting block of an identical number of 300,000 shares of Piper, at the identical price of $65 per share, which was the exact number of shares sought in and by and the exact price of Chris-Craft's tender offer, and this wrongful manipulation was of unissued shares of Piper or from Piper's treasury. Thus, if Chris-Craft's tender offer was inadequate, and it was, Piper management was guilty of the same or greater misconduct in the sale to Grumman.

10. According to releases in the public press, the Board of Directors of Piper, and Grumman's Board of Directors, on or about January 30, 1969, both approved the sale of said 300,000 shares of Piper to Grumman at $65 per share. Following the institution of this action, however, such sale was terminated by Grumman acting in concert with Piper's management, all at great expense to Piper, and all in disregard of and to impair the rights and investments of Piper shareholders. Thereupon, plaintiff filed amended complaints herein, charging the further acts of misconduct

involved, and it will clearly appear to the Court that if the Grumman sale was justified, or a bona fide arms length transaction, there can be no reason why Piper management should let Grumman walk away from its purchase of Piper shares.

11. Nor did Piper management give up their self-dealing and purposeful attempts to perpetuate their control of Piper. Indeed, it thereupon appeared in the public press that Piper management had acquired two companies - United States Concrete Pipe Company of Florida ("U.S. Concrete") and Southply, Inc. ("Southply"), and they wrongfully agreed to issue or transfer approximately 470,000 shares of Piper to U.S. Concrete and Southply, without the knowledge and approval of the New York Stock Exchange and Piper shareholders. This resulted in the suspension of trading in Piper shares on the New York Stock Exchange for approximately two weeks, and this misconduct was referred by the New York Stock Exchange to the SEC for action in delisting Piper shares altogether. Such delisting was only averted when Piper somehow rescinded the transaction with U.S. Concrete and Southply in manner to plaintiff presently unknown.

12. Nor did Piper management now give up their self-dealing and purposeful attempts to perpetuate their control of Piper. Instead, they entered into a transaction for the consolidation or merger of Piper with Bangor Punta Corporation, solely to block Chris-Craft's take-over plans and to perpetuate their own control of Piper, its directors and officers. The press release of Piper and Bangor Punta (Exh. "B", annexed), announcing their new plan, was made in the face of the earlier announcement by William T. Piper, Jr., the President of Piper, that Piper did not have any interest in Chris-Craft's move and that "we aren't interested in any merger or associations or

anything like this". The last mentioned press release (Exh. "B") resulted in an injunction action brought by the SEC against Piper and Bangor Punta for violation of Federal securities law, and a consent decree has been granted in that action, according to the public press. Hopefully, this will be the last of the great expense wrongfully saddled upon Piper by the defendants.

13. Chris-Craft, on the other hand, has also sought to acquire Piper by acts of misconduct, as charged by the plaintiff. In such behalf, Chris-Craft solicited proxies in connection with a first tender offer for 300,000 shares of Piper, in which it was successful, but it induced such tender offers, and proxies, at the grossly and unconscionably inadequate offer of $65 per share, and by omitting to disclose that Chris-Craft would vote Piper shares before paying therefor, which thus enabled Chris-Craft to vote first and pay later. Also, Chris-Craft thus avoided the risk that some or all of such tenderees would refuse to permit their shares to be voted by Chris-Craft had they known that Chris-Craft would not pay for the shares until after they got their 300,000 shares and after it voted the same.

14. Furthermore, Chris-Craft made a second tender offer to Piper shareholders, likewise since the commencement of this action. This second tender offer, as announced in the public press, was thereafter sweetened in Chris-Craft's advertisement for tenders (Exh. "C", annexed), by $10 a share, which points up the scheme of Chris-Craft and inadequacy of the prior tender offers it thus made, as well as the inadequacy of the sale of 300,000 shares of Piper to Grumman at $65 per share, above mentioned. In its advertisement (Exh. "C"), Chris-Craft misleadingly stated, among other things, that it would pay

tendering Piper shareholders interest at the rate of $5.36 per annum to the "Effective Date of Exchange", on each share of Piper tendered, but it omitted to say on what amount it would pay interest. This tender offer is furthermore misleading in that, among other things, Chris-Craft omitted to clearly disclose that it was not obligated to pay any interest whatsoever, however long Chris-Craft might postpone the "Effective Date of Exchange", if it transpired that "a minimum of 80,000" shares of Piper, specified in said advertisement are not tendered. In addition to the foregoing, such advertisement omitted to clearly disclose that if Piper shareholders tendered less than the 80,000 share minimum, Chris-Craft, at its sole option could accept a lesser number of shares tendered, in which case Piper shareholders who thus tendered their shares to Chris-Craft would be placed at a disadvantage in the event of an offer from Bangor Punta or others superior to that of Chris-Craft or in the event the market price of Piper late exceeded the Chris-Craft tender offer. Chris-Craft's advertisement for tenders likewise violates the proxy regulations of the Securities Act, hereinbefore specified, in that it requires proxies of tendering Piper shareholders, but it omits to disclose such requirement, and it omits to state that Chris-Craft will vote such proxies in its controversy with the remaining defendants.

15. In order to correct plaintiff's pleading and bring the complaint into focus with the wrongful acts and practices of the defendants which occurred since the commencement of this action, and in order to join Bangor Punta in this action, a supplemental summons and amended and supplemental complaint are respectfully prayed, a copy of which is attached (Exh. "D", annexed). Attention of the Court is called that the defendant

Norman J. Greene is in default in answering, and Bangor Punta being an added defendant, it would appear that plaintiff's right to amend as to them is or should be a matter of course. With respect to the remaining defendants, amendment of the complaint is necessary to determine the issues raised therein. No prejudice can result from the granting of this application. No defendant has answered except Chris-Craft.

16. At, or as a result of the Piper Annual Meeting of February 4, 1969, Chris-Craft succeeded in electing two directors to the Piper Board. Plaintiff contends that the entire election should be set aside, because it was accomplished by serious violations of the proxy statute and the rules and regulations of the SEC, both by management and by Chris-Craft. The individual defendants, the Piper family, have been aided and abetted by the remaining defendants since the beginning of the controversy between the Piper family and Chris-Craft. That controversy started in January of this year when Chris-Craft first publicly announced its accumulation of 200,500 shares of Piper, constituting more than 10% of the voting shares of Piper. The controversy between Chris-Craft and the Piper family, since that time, has been carried by them into the public press by press releases of both sides and by advertisements by Chris-Craft containing over-zealous and misleading statements and misrepresentations, as a result of which Piper shareholders have been induced to sell their shares at grossly inadequate prices and give proxies to one side or the other, upon which plaintiff's action is based, so advised by plaintiff's attorneys. Piper is a pioneer in light aircraft. In my opinion, Piper has become the leading manufacturer of light aircraft in the nation. Nevertheless, there can be no justification for the huge waste of Piper assets, monies

use property to carry on a purely personal controversy between the Piper family and Chris-Craft, and this has been accomplished by Securities Act violations on both sides, and the question really is, which side violated the Securities Act more. The Piper family has additionally used and is using Piper funds for personal advantage. Defendants all seek control of Piper at grossly inadequate prices, as more fully shows in and by the proposed pleading, annexed.

WHEREFORE, it is prayed that the foregoing motion of the plaintiff be granted pursuant to FRCP Rules 15(a) and (d) and 21, and that a supplemental summons and an amended and supplemental complaint be allowed so as to bring in Bangor Punta as a defendant in the instant action, and for such other and further relief as to the Court seems just.

Sworn to before me this
[illegible] day of May, 1969

Gwendolyn A. Connelly

GWENDOLYN A. CONNELLY
Notary Public, State of New York
No. 24-[illegible]
Qualified in Kings County
Commission Expires March 30, 19[illegible]

Affidavit of Paul G. Pennoyer, Jr.

Piper Aircraft Corporation
Lock Haven, Pennsylvania 17745

IMPORTANT

January 27, 1969

Dear Shareholder:

In an attempt to gain control of your Company, Chris-Craft Industries, Inc., a small New York-based conglomerate, has offered to purchase 300,000 shares of Piper Common Stock at $65 per share.

Your Board of Directors has carefully studied this offer and is convinced that it is inadequate and not in the best interests of Piper's shareholders. Accordingly, your Board unanimously urges that it be rejected. Not one member of your Board of Directors or management will tender his shares.

Obviously, if Chris-Craft is suddenly willing to offer you $65 per share for your shares, Chris-Craft must believe that Piper stock is worth substantially more than it is offering.

Remember, any tender of your shares will be irrevocable on or after January 30, 1969. In other words, after this date your shares could be out of your possession and control until March 24, 1969 and without any payment to you.

In addition, this offer is conditioned on your surrendering to Chris-Craft an irrevocable proxy for the annual meeting on February 4, 1969. Your management believes this is a solicitation of proxies without proper compliance with the federal securities laws and has referred the matter to counsel.

In your own best interest, we urge you to consider carefully the following important points:

1. This offer is a fully taxable transaction.
2. Piper's stock has traded as high as $72.25 on the New York Stock Exchange within the past eight months.
3. Piper's sales increased more than 20% in fiscal 1968 over the prior year, and its earnings per share were approximately 29% higher.
4. The general aviation industry is a growth industry, and Piper expects to participate fully in this growth.

You should know that Piper's management has had preliminary discussions with several major industrial corporations regarding possible combination with Piper. These are continuing. In the opinion of your Board of Directors and management, if a merger or consolidation were deemed advisable, a higher value could be realized for all shareholders and possibly on a tax-free basis. Any shareholder who has tendered his shares will not, of course, benefit from any such development.

For these reasons, your Board of Directors again strongly recommends that you reject the Chris-Craft offer.

We will forward additional important information to you within the next several days. If I can be of further assistance to you, please do not hesitate to call me collect at (717) 748-6711.

Sincerely,

W. T. Piper, Jr.

W. T. Piper, Jr.
President

EXHIBIT "[illegible]"

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Bangor Punta To Buy Big Block Of Piper Stock

Piper Family to Be Sellers; Pact Called a First Step Toward a Consolidation

Bangor to Seek All Shares

By a WALL STREET JOURNAL *Staff Reporter*

NEW YORK—Bangor Punta Corp., a frequent corporate suitor, said it agreed to acquire more than 500,000 shares—or at least 30%—of Piper Aircraft Corp. common stock from the Piper family.

The agreement is intended as a first step toward consolidation of Bangor Punta and Piper, officials of both companies said. Bangor Punta also is preparing an exchange offer for all remaining Piper shares, the officials said.

The agreement marks the latest in a long series of efforts by Piper to prevent Chris-Craft Industries Inc. from gaining a controlling interest in the Lock Haven, Pa. airplane maker. Chris-Craft owns 331,003 Piper common shares and has made an exchange offer for 300,000 more, which would bring its holdings to more than 50%.

A Chris-Craft spokesman said yesterday that Chris-Craft would vigorously oppose the Piper-Bangor Punta agreement and any merger attempt. The spokesman said Chris-Craft's legal counsel considers the announcement "in violation of the Federal securities statutes and Securities and Exchange Commission rules."

Under the agreement and the probable exchange offer terms, both the Piper family and other Piper shareholders would receive a package of Bangor Punta securities for their Piper shares, the announcement said. Bangor Punta said the securities package it will offer for shares held outside the family is worth, in the judgment of First Boston Corp., not less than $80 per Piper share. The Piper family will receive "no more per-share" than other holders are offered, Bangor Punta said.

Piper common closed yesterday on the New York Stock Exchange at $72.50, up $1.50 from Wednesday.

Details of the agreement and the exchange offer weren't available.

Chris-Craft Offer

On Wednesday, Chris-Craft announced terms of its offer to acquire 300,000 additional Piper shares. The offer is to exchange one share of new Chris-Craft $5 preferred and warrants to buy two shares of Chris-Craft common for each share of Piper held. Each warrant entitles holder to buy one share of Chris-Craft at $15 on or before June 1, 1971. The Chris-Craft preferred is convertible into 1.1 shares of Chris-Craft common between June 1, 1970 and June 1, 1975. The preferred is redeemable at [illegible]

[illegible]

[illegible] man Aircraft Engineering Corp., but this plan was dropped after court opposition by Chris-Craft.

Later, Piper sought to acquire U.S. Concrete Pipe Co. of Florida and SouthPly Inc. in exchange for 470,000 Piper treasury shares. This plan, too, was dropped after the New York Stock Exchange suspended trading in Piper common April 7 on the ground that proper stockholder approval hadn't been secured. Trading in Piper common was resumed April 21.

Noting that the Grumman, U.S. Concrete and SouthPly agreements were terminated, the Chris-Craft spokesman said, "In most ball games three strikes is out."

"We're perfectly serious, and we don't think this is a baseball game," retorted David W. Wallace, Bangor Punta's president and chief executive officer.

In a joint announcement, Mr. Wallace and William T. Piper Jr., Piper's president, said a registration statement covering all securities to be issued would be filed with the Securities and Exchange Commission as soon as possible and a meeting of Bangor Punta shareholders will be called for approval.

Mr. Piper said he and the Piper family would strongly support merger of the two concerns and would recommend it to stockholders.

In Big Board trading yesterday, Bangor Punta common advanced $1.375 to $34.125, while Chris-Craft common fell $2.25 to $44.50.

Earnings Were Steady

In the six months ended March 31, Piper earned $2.7 million, or $1.63 a share, the same as in the year-earlier period. Sales were $31.4 million against $30.3 million. The 1969 figures are restated to reflect the Federal income tax surcharge. Piper said a change in the method of computing depreciation increased the 1969 earnings by seven cents a share.

Bangor Punta, in the first fiscal quarter ended last Dec. 31, earned $3 million, or 75 cents a share, on sales of $83.3 million, against net of $1.4 million, or 32 cents a share, on volume of $50.4 million a year earlier. The company had 4,015,000 shares outstanding in the first quarter against 2,937,000 a year earlier. The figures assume full conversion of all preference stock and 5% convertible notes. They include operations of Waukesha Motor Co. and Producers Cotton Oil Co., which were acquired in 1968.

Bangor Punta is a diversified concern. Among its interests are textiles, law-enforcement equipment, pleasure boats, agriculture, and railroads.

Last year Bangor Punta made a tender offer for stock of Harley-Davidson Motor Co., Milwaukee, acquired 10% of the common stock of Lenox Inc., Trenton, N.J., and negotiated unsuccessfully to acquire Delaware & Hudson Co., the parent company of Delaware & Hudson Railroad.

[illegible]

[illegible] CORPORATION

...istration Statement, filed with the Securities and ...ge Commission, has become effective covering the issuance of certain securities of

Chris-Craft
INDUSTRIES, INC.

-Craft Industries, Inc. ("Chris-Craft") is offering, ...on, to exchange its Preferred Stock, $2.00 ...ible Series of 1969 (Convertible between August 1, ... June 1, 1979) ("$2.00 Preferred Stock"), ...ts to purchase Chris-Craft Common Stock at $25.00 ...e and cash in the amount of $16.00 for a minimum ... and up to 800,000 (and, at Chris-Craft's option, additional 100,000) shares of Piper Aircraft Cor... ("Piper") Common Stock in the ratio of:

One Share of Chris-Craft
$2.00 Convertible Preferred Stock
plus
Warrants, each to Purchase One Share of
Chris-Craft Common Stock
plus
$16.00 Cash
for
Share of Piper Common Stock

...ing Piper Shareholders will also receive:

...regular quarterly 35¢ dividend of Piper to which ...titled, payable in June, 1969, regardless of when ...shares are tendered and
...rest at the rate of $5.85 per annum for each ...red from the date of receipt by the Exchange Agent of tendered certificates to the Effective Date ...ge.

What to Do

Holders of Piper Common Stock who wish to accept the Exchange Offer, after examining the Prospectus relating thereto, should send certificates for the shares of Common Stock they wish to exchange, together with the Letter of Tender, duly completed and executed, in time to reach the Exchange Agent no later than 5:00 P.M., New York Time, on June 5, 1969. Shares deposited may be withdrawn at any time before 5:00 P.M., New York Time, May 28, 1969.

Copies of the Prospectus and Letter of Tender may be obtained from the Exchange Agent, as well as from Loeb, Rhoades & Co., 42 Wall Street, New York, N. Y. 10005, and from Shields & Company Incorporated, 44 Wall Street, New York, N. Y. 10005, and other qualifie... dealers soliciting acceptances un...der the terms of the Exchange Of...fer, or from The Kissel-Blake Or...ganization, Inc., 30 Broadway, Ne... York, N. Y. 10004.

The Exchange Offer will Expire at 5:00 P.M., New York Time, on June 5, 1969, Unless Extended.

Exchange Agent
The Bank of New York
Corporate Agencies Division, 6th Floor
20 Broad Street, New York, N. Y. 10015

Chris-Craft has authorized Loeb, Rhoades & Co. and Shields & Company Incorporated, as Dealer Managers, to use their best efforts to form a group of Soliciting Dealers, including themselves, to solicit acceptances of the Exchange Offer.

The Soliciting Dealers will be pai... a commission of $1.25 for eac... share of Piper Common Stock a...cepted for exchange, provided t... Soliciting Dealer is named in a du... executed Letter of Tender.

In states where the applicable law requires that the Exchange Offer be made by or through a licensed securities dealer, the Exchange Offer is being made on behalf of Chris-Craft by one or more registered broker-dealers who are licensed under the laws of such states.

This announcement is neither an offer to sell nor a solicitation of an offer to buy or exchange the securities referred to above. The Exchange Offer is made only by the Prospectus, copies of which may be obtained in any state only from such of the several Soliciting Dealers, including the undersigned, as may lawfully solicit exchanges under the Exchange Offer in such state.

Dealer Managers

Loeb, Rhoades & Co.
[illegible]

Shields & Compan...
Incorporated

NEW YORK TIMES May [illegible], 1969

EXHIBIT "C"

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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LILLIAN STULL,

Plaintiff,

v.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., THOMAS F. PIPER and HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, GRUMMAN AIRCRAFT ENGINEERING CORPORATION, CHRIS-CRAFT INDUSTRIES, INC., PIPER AIRCRAFT CORPORATION, and BANGOR PUNTA CORPORATION,

Defendants.
-------------------------------------x

AMENDED AND
SUPPLEMENTAL
COMPLAINT

FOURTH COUNT - CLASS ACTIC

69 Civ. 440

Plaintiff, for her fourth amended and second supplemental complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraphs "1", "6" and "27", which are alleged on knowledge:

FIRST COUNT

1. (a) That plaintiff is a stockholder of Piper Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Exchange Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.

(b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on

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behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.

2. That Piper is and at the times of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

3. That defendants Chris-Craft Industries, Inc. ("Chris-Craft") and Bangor Punta Corporation ("Bangor Punta") are Delaware corporations; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that both Chris-Craft and Bangor Punta engaged in multiple fields of business and were commonly known as conglomerates; that the shares of both were and are listed and traded on the NYSE.

4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complaint of Grumman's executive offices were in Nassau County, State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.

5. That the individual defendants are or were at the times complained of directors and officers of Piper,[1] and they and defendants Chris-Craft, Grumman and Bangor Punta committed the acts of misconduct complained of and the individual defendants caused Piper to engage in such acts and practices, in violation of Sections 5 and 11 of the Securities Act of 1933 (15 USC 77e and k ("Securities Act") and Rule 135 of the Rules and Regulations of the Securities and Exchange Commission ("SEC") relating thereto, and Sections 10(b), 14(a) and 16 of the Exchange Act (15 USC 78j, n and p) and Rules 10b-5 and 10b-6 and Regulation 14a-1, et seq.

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[1] William T. Piper, Jr., Thomas F. Piper and Howard Piper are the Executors of the Estate of William T. Piper, deceased, one of the individual defendants, who died since the commencement of this action.

and 16a-1, *et seq.* of the SEC (17 CFR 240.10b-5, 10b-6 and 14a-1, *et seq.*), among others, or are chargeable therewith. Defendants Grumman and Bangor Punta aided and abetted or participated in the acts and practices of the individual defendants complained of. Defendants are citizens of States other than Connecticut.

6. That the jurisdiction of this Court is founded on Section 22 of the Securities Act (15 USC 77v) and Section 27 of the Exchange Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding $10,000.00 (28 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.

7. That prior to the times complained of Piper was a "family" corporation, so called, of William T. Piper, now deceased who was Chairman of its Board of Directors, and his son William T. Piper, Jr., was its President. That Piper was a pioneer and leade in the field of light aircraft. That the Piper family had retaine control over and dominated Piper over the years by cumulative voting and by the confidence of its stockholders. That its annual meeting for the election of directors was heretofore scheduled for February 4, 1969, with the management slate of directors composed of members of the Piper family and their nominees. That any change in the Board of Directors and officers of Piper since the acts and practices complained of result from the misconducts complained of.

8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper, which was in excess of 10% of Piper's common stock Seeking to gain control of Piper's Board of Directors at the annual meeting scheduled to be held on February 4, 1969, and thereafter o merge Piper with Chris-Craft, Chris-Craft released the news of

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its said acquisition on or about January 25, 1969, and it made a tender offer for 300,000 additional shares of Piper at $65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting.

9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than $55.00 per share jumped to slightly less than the Chris-Craft tender offer of $65.00 per share. Piper prior to the time of the acts and practices complained of had traded on the NYSE at prices in excess of $70.00 per share. Plaintiff and other shareholders were led to believe, by the acts practices herein complained of, that the true value of Piper shares was in excess of $100.00.

10. That thereupon and thereafter, the individual defendants, being the officers and directors of Piper and in control of Piper, fearing that they would lose control of Piper and its Board of Directors, and seeking to prevent Chris-Craft from acquiring shares and proxies of and from Piper shareholders, which Chris-Craft needed to control the Board of Directors of Piper and/or to combine or merge Piper with Chris-Craft, embarked upon a plan, scheme and conspiracy to perpetuate and insure their control over Piper and its Board of Directors, and to prevent Chris-Craft from electing directors, as was Chris-Craft's purpose to do, at the annual meeting of Piper on February 4, 1969, and from otherwise gaining control of Piper.

11. That in furtherance of such plan and scheme, in and about January, 1969, and since, by use of the means or instrumentality of interstate commerce, or of the mails, or the facilities of the NYSE, the individual defendants made and caused Piper to make

untrue and unclear statements of material facts and omitted to clearly state material facts necessary in order to make the statements they made, in light of the circumstances under which they were made, not misleading in connection with the purchase and sale of Piper shares, and the solicitation of proxies for the aforesaid annual meeting of Piper, and since; and the remaining defendants, except Chris-Craft, aided and abetted or participated in such acts.

12. (a) That among other things, said individual defendants, at the cost and expense of Piper in excess of $10,000.00 aided and abetted by the defendants, except Chris-Craft, wrongfully advised, solicited and sought to and did wrongfully induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft and instead, to retain their shares and execute proxies for said annual meeting in favor of management's slate, upon representations, among others, that Chris-Craft's tender offer was "inadequate" and not in the best interests of Piper stockholders; that "NOT ONE OF YOUR BOARD OF DIRECTORS OR MANAGEMENT WILL TENDER HIS SHARES", which defendants emphasized to induce stockholders of Piper to follow the alleged lead of the Board of Directors and Management and they misleadingly implied that all members of the Board of Directors and Management held shares, which was untrue; and they impliedly represented that "Piper stock is worth substantially more than it [Chris-Craft] is offering". Said statements were made by use of the mails.

(b) Said individual defendants in order to and they did delay the purchase and sale of Piper shares, and they misled Piper shareholders, and they artificially influenced the market in Piper shares, by omitting to state any basis for such representation of inadequacy, and whether they or Piper had procured an independent evaluation and by whom, and what would be an adequate offer; that their true and sole objective was to perpetuate their domination and control of Piper, continue themselves in office and prevent Chris-Craft from electing directors to replace the individual defendants, or some of them, as Piper directors, at Piper's said annual meeting to be held February 4, 1969, and from gaining control of Piper Board of Directors and/or combining or merging Piper with Chris-Craft; and they omitted to state that the alleged inadequacy of Chris-Craft's offer to Piper shareholders was not, in truth and fact, the reason they advised Piper shareholders not to sell their Piper shares to Chris-Craft.

13. That furthermore, to accomplish their said plan and scheme, the said individual defendants delayed and misled Piper shareholders and artificially influenced the market in Piper shares by wrongfully scheming with the defendant Grumman to and they did cause Piper to sell Grumman an off-setting block and identical number of 300,000 shares of Piper, from Piper's unissued or treasury stock, at the identical price of $65.00 per share offered by Chris-Craft and said defendants procured said sale to Grumman to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969. That furthermore said defendants wrongfully omitted to fully and fairly disclose the terms of such transaction to Piper shareholders while advising and since maintaining to Piper shareholders, and in soliciting their proxies, that Chris-Craft's tender offer was "inadequate" all to the loss and damage of Piper and its shareholders, as said defendants well knew or should have known.

14. That furthermore, the defendants, except Chris-Craft and Bangor Punta, failed to disclose to Piper shareholders that said sale of 300,000 Piper shares to Grumman was part and

parcel of an agreement or understanding between the individual defendants and Grumman which provided or contemplated, among other things, an exchange of shares by Piper shareholders for and a combination, consolidation, or merger of Piper with Grumman, or which otherwise would continue, perpetuate, and insure the domination and control of Piper's Board of Directors and officers by the individual defendants, and Grumman undertook and agreed to aid the individual defendants in blocking the purchase of Piper shares by Chris-Craft, and to artificially depress the market in Piper shares, and to sell such offsetting block of Piper shares to Grumman at an inadequate price, and they did within the prohibitions of the Exchange Act.

15. That following and as a result of the institution of the instant action, the said individual defendants failed to close the aforesaid sale of said offsetting block of 300,000 share of Piper's unissued or treasury stock to defendant Grumman at $65.00 per share and they wrongfully purported to excuse Grumman of and from the obligation of Grumman, and misconduct, without the knowledge and approval of Piper shareholders, to the further damage of Piper and its shareholders, as said individual defendant well knew or should have known.

16. That meanwhile, in furtherance of their aforementioned plan and scheme and to wrongfully increase the total number of Piper shares that Chris-Craft would need to successfully combine or merge Piper into or with Chris-Craft and to defeat and prevent Chris-Craft from combining or merging Piper with Chris-Craft, as well as the percentage of other Piper shareholders who might independently vote their Piper shares for Chris-Craft, or otherwise, the individual defendants caused Piper to replace their transaction in Piper shares with Grumman by an acquisition they

caused Piper to make or agree to make with the United States Concrete Pipe Company of Florida ("U.S. Concrete") for all of its shares, and with Southply, Inc. ("Southply") for 99% of its shares and they wrongfully agreed to issue or transfer approximately 470,000 shares of Piper to U.S. Concrete and Southply in consideration therefor, without the knowledge and approval of the NYSE and Piper shareholders, and they did. That such acquisition or transaction was illegal and it was accomplished without making a full, true and reasonable independent evaluation of the same, but instead said defendants wrongfully considered their need to defea the Chris-Craft plans to take over Piper, alone. That stockholder approval of such acquisition was required by the Rules of the NYSE.

17. That the sale and issuance or transfer of approximately 470,000 shares of Piper to U.S. Concrete and Southply, or the agreement therefor, additionally failed to comply with the rules of the NYSE; that the individual defendants and those responsible therefor caused the NYSE to suspend all trading in Piper shares on or about April 3, 1969 to the damage of Piper and its shareholders of the valuable property right of Piper and its shareholders to trade on the NYSE and the credit and image of Piper was also impaired and damaged thereby; that said suspension was lifted more than two weeks thereafter when it was publicly announced that the sale or transfer of Piper shares to and the acquisition by Piper of U.S. Concrete and Southply was somehow rescinded, likewise without the knowledge and consent of Piper shareholders, all to the further loss and damage of Piper and its shareholders. The said defendants and those responsible therefor artificially affected and depressed the market in Piper shares on the NYSE during that entire period in that trading

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in Piper securities was and remained suspended, and indeed the NYSE had referred defendants' misconduct to the SEC for the purpose of delisting Piper shares altogether, to Piper's damage.

18. That thereupon and in furtherance of their aforesaid conspiracy and almost simultaneously with the termination or rescission of the aforesaid acquisition of U.S. Concrete and Southbrly by Piper, the individual defendants sold or agreed to the sale of their own shares and shares they controlled in Piper, constituting approximately 30% of the common stock of Piper to the defendant Bangor Punta Corporation ("Bangor Punta"), as a first step in a wrongful and self-dealing agreement for a consolidation or merger of Piper with Bangor Punta for unfair and inadequate consideration; that the individual defendants also caused Piper to make an agreement to combine or merge Piper with Bangor Punta in face of one of their earlier announcements (in opposing Chris-Craft's tender offer referred to in paragraph "8" hereof) in the public press, made by or through the defendant William T. Piper, Jr., President of Piper, that Piper did not have any interest in Chris-Craft's move and that "we aren't interested in any mergers or associations or anything like this".

19. That the sale of defendants' shares referred to in paragraph "18" hereof and the consolidation or merger of Piper with Bangor Punta, is additionally wrongful in that it is purposed to perpetuate the individual defendants in control of Piper and to continue them as officers and directors of Piper to continue to receive the benefits and emoluments of their offices and to dominate and control the management of Piper and prevent Chris-Craf from electing directors to replace the individual defendants as directors and officers of Piper and acquire Piper by an exchange of shares, consolidation and merger of Piper with Chris-Craft, to

all of which Bangor Punta agreed and participated, in violation of law.

20. That the individual defendants, aided and abetted by Grumman and Bangor Punta, in furtherance of their said plan and scheme in which Grumman and Bangor Punta joined and participated, wrongfully manipulated the shares of Piper, in connection with the sale of Piper shares to and agreements made with Grumman U.S. Concrete, Southply and Bangor Punta, all for their self-interest and self-dealing purposes, in fraud and deceit of Piper and its shareholders, and they impaired and depressed the market in Piper shares for their own profit, and agreed to sell same to Grumman and then to Bangor Punta at inadequate prices, and they wasted and misappropriated the assets of Piper, diluted the value ofits shares in and by the purchase and sale agreements aforementioned, caused the permanent delisting of Piper on the NYSE and consequent loss of its market for its shares, and violated their fiduciary obligations and duties to Piper and its shareholders.

21. (a) That the proxy materials of Piper prepared by the said individual defendants, were wrongfully purposed to induce the plaintiff and other shareholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxies to the Piper management's nominees, which defendants continue to solicit in pursuance of their aforementioned plan and scheme to perpetuate and insure their control of Piper, and their election to the Piper Board of Directors at Piper's said annual meeting scheduled first on February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper and gaining control of Piper's Board of Directors at said annual meeting and since, and to defeat and prevent Chris-Craft from combining, consolidating or merging

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Piper with Chris-Craft;

(b) That the investment agreement and sale of 300,000 shares of Piper unissued or treasury shares to Grumman at $65.00 per share, was for less than their value and was purposed solely to counteract and defeat the Chris-Craft objectives and retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vo such stock for and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares;

(c) That the investment agreement and sale of approximately 470,000 shares of Piper to U.S. Concrete and Southply upon the acquisition of U.S. Concrete and Southply by Piper, was for less than the true value of such Piper shares and was purposed solely to counteract and defeat the Chris-Craft objectives and retain control in and over Piper by the individual defendants, upon an understanding with the defendants U.S. Concret and Southply that the recipients of such Piper shares would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares;

(d) That the agreement and sale of the shares of Piper owned or controlled by the individual defendants to Bangor Punta was purposed solely to counteract and defeat the Chris-Craft objectives for the sole benefit of the individual defendants, and to sell out Piper to Bangor Punta at a wholly inadequate price and one that defendants allegedly would not consider had they not been hard pressed by Chris-Craft's proposals;

(c) That the wrongful and wholly selfish and se dealing acts and practices of the defendants, except Chris-Craft, have caused great loss and damage to Piper and its shareholders, the amounts of which can only be determined by this action.

22. That the plan and scheme of the individual defendants to block Chris-Craft's take-over of Piper by wrongful means, in which the defendant Bangor Punta joined and participate and the sale of defendants' shares to and the consolidation or merger of Piper with Bangor Punta, referred to in paragraph "18" hereof, is additionally illegal, in that it was initially disclosed to the public and particularly to Piper's shareholders by press release of the individual defendants, on behalf of Piper, and Bangor Punta, issued on or about May 8, 1969, which press release constituted an offer to sell securities before a registration statement and prospectus had been filed, as required by law.

23. That moreover in the said press release of May 8, 1969, referred to in paragraph "22" above, the defendant Bangor Punta stated that

> "Bangor Punta said the securities package it will offer for shares held outside the family is worth, in the judgment of First Boston Corp., not less than $30 per Piper share. The Piper family will receive 'no more per-share' than other holders are offered, Bangor Punta said."

But Bangor Punta wrongfully omitted to disclose the material fact, among others, that it was to pay a bonus or premium to the individual defendants for their aid if Bangor Punta acquired more than 50% of Piper shares; and in its financials it carried as an asset shares of Bangor and Aroostook Railroad at a value of approximate $16 million, which Bangor Punta and the individual defendants well knew or should have known was grossly excessive and exaggerated, and Bangor Punta has since sold its said shares in Bangor and

Aroostock Railroad for approximately $6 million.

24. That the scheme of the individual defendants to block Chris-Craft's take-over of Piper by wrongful means, in which Bangor Punta joined and participated, and the sale of defendants' shares and attempted consolidation or merger of Piper with Bangor Punta, referred to in paragraph "18" hereof, was additionally illegal in that said defendants caused or induced sales of Piper shares to Bangor Punta for cash in certai private transactions while Bangor Punta's exchange offer was yet outstanding, to the great loss of Piper and its shareholders.

25. That the acts and practices of the individual defendants, and of Grumman and Bangor Punta, aforementioned, wer purposed to deceive and defraud Piper and its shareholders and Piper and its shareholders were defrauded and damaged thereby.

26. That the damages and loss to Piper, the plaintiff and other Piper shareholders were caused solely by the acts and practices of the defendants, except Chris-Craft, and the defenda responsible should be required to account therefor, and their illegal acts enjoined and Bangor Punta directed to divest itself of all wrongful and illegal purchases of Piper shares by decree of the Court. That Chris-Craft intends to hold Piper responsibl for huge damages suffered as a result of the foregoing acts, or some of them, and to which it claims to be entitled as a result of a determination by the United States Court of Appeals, on April 28, 1970, in its favor, but said damages, if any, were caused by the wrongful acts of the individual defendants and Bangor Punta and they are responsible to Piper and its shareholders therefor.

27. That this action is not a collusive one to confer

on a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.

28. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile The said directors are the very individuals against whom complain is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such director it could not and would not be effectively prosecuted.

29. That plaintiff has made no demand upon the stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.

30. That plaintiff has no adequate remedy at law.

SECOND COUNT

31. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.

32. That the sale of 300,000 shares of Piper to Grumman at $65.00 per share was grossly and unconscionably inadequate and was part of a wrongful scheme in which Grumman aided and participated.

33. That the agreement of Bangor Punta to acquire Piper by exchange of shares, by consolidation or merger, or otherwise, contemplated payment by Bangor Punta to Piper's shareholders of not less than $80.00 per share, and the Court should direct Bangor Punta to specifically perform its said agreement, but at not less than $80 per share.

34. That by reason of the foregoing, defendants Grumman and/or Bangor Punta should be compelled by decree of the Court to specifically perform their agreements with Piper but at such fair value as the Court shall determine; that in addition or in the alternative, the damages of Piper resulting from the misconducts in which Grumman and Bangor Punta aided and abetted the individual defendants and in which they participated should be determined and judgment rendered in accordance with such determination.

THIRD COUNT

35. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.

36. That at the time of Chris-Craft's tender offer, Chris-Craft well knew or should have known that the market price of the shares of Piper was depressed and furthermore that its tender offer for Piper shares was unconscionably and grossly below their true value.

37. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of taking over and

controlling Piper's Board of Directors or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view to controlling Piper as a first and initial step to merge Piper into or with Chris-Craft at less than the fair value of Piper, as an arm or subsidiary of a conglomerate in an unrelated business, contrary to the interests of Piper and its shareholders, and to the detriment and damage of Piper and its shareholders.

38. That the defendant Chris-Craft's tender offer was calculated to vote the shares of Piper to be acquired under and by virtue of such tender offer without payment and without disclosure that Chris-Craft intended not to pay therefor prior to Chris-Craft's voting such shares so tendered at the said annual meeting of Piper on February 4, 1969; that Chris-Craft failed and omitted to clearly disclose to Piper shareholders that it would not pay for the shares tendered until after it voted the accompanying proxies at said annual meeting; that the omission of Chris-Craft to clearly state its aforesaid purpose was in truth and fact because Chris-Craft had no knowledge that its tender offer would be successful and it was Chris-Craft's purpose to gauge the success of such tender offer before and without payment and without informing Piper shareholders they would not be paid prior to the said annual meeting of Piper.

39. That the omission of Chris-Craft to clearly reveal that it would not pay Piper shareholders for shares tendered pursuant to such tender offer until after it voted such

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shares at the annual meeting of Piper scheduled to be held on February 4, 1969; that Piper shares were worth far in excess of Chris-Craft's tender offer; and that the true, undisclosed and sole purpose of such Chris-Craft tender offer was to oust Piper management and consolidate or merge Piper with Chris-Craft, constitute the wilful violation of Sections 10(b) and 14(a) of the Act and Rule 10b-5 and Regulation 14a-1, et seq. of the SEC for the solicitation of Piper shares and proxies on which defendant's tender offer was conditioned. Moreover, some or all shareholders of Piper would not have accepted Chris-Craft's tender offer and given Chris-Craft proxies for the annual stockholders meeting of February 4, 1969 had they known of Chris-Craft's purpose to vote their shares of Piper for Chris-Craft's purposes before Chris-Craft paid for the same.

40. That Chris-Craft's tender offer referred to in paragraph "8", above, was grossly and unconscionably inadequate and was purposed to acquire Piper and to merge and consolidate Piper with Chris-Craft at a cost to Chris-Craft of not more than $65.00 per share or its equivalent, which Chris-Craft failed to reveal to Piper shareholders in such tender offer and in its solicitation of proxies; that by a second tender offer, Chris-Craft has since that time (but prior to the proposal of the individual defendants, conspiring with Bangor Punta to block the plans of Chris-Craft), proposed to consolidate or merge Piper with Chris-Craft on the basis of an exchange of shares and warrants to purchase the new Chris-Craft stock (i.e., Chris-Craft stock subsequent to merger of Piper) which

was again grossly and unconscionably inadequate and of little value, if any, above Chris-Craft's aforesaid tender offer of $65.00 per share and which may well be less than Chris-Craft's first said tender offer.

41. That since the institution of the instant action, and since its proposal to exchange Piper shares for Chris-Craft shares and warrants, as alleged in paragraph "40", above, Chris-Craft has increased its second offer by $10.00 per share, but it did so in manner purposed to confuse and mislead Piper shareholders, to conceal prior inadequacy, and said Chris-Craft offer yet remains unconscionably and grossly inadequate.

42. That on May 21, 1969, to induce tenders by Piper shareholders under its above mentioned second tender offer, Chris-Craft advertised in the public press that it would pay tendering Piper shareholders interest at the rate of $5.36 per annum to the "Effective Date of Exchange", on each share of Piper tendered, but it omitted to say on what amount it would pay interest. Moreover, Chris-Craft omitted to clearly disclose that it was not obligated to pay any interest whatsoever, however long it might postpone the "Effective Date of Exchange", if it transpired that "a minimum of 80,000" shares of Piper, specified in said second tender offer, are not tendered.

43. Furthermore, in said advertisement of May 21, 1969, Chris-Craft omitted to clearly disclose that if Piper shareholders tendered less than "a minimum of 80,000" shares

of Piper, Chris-Craft at its option, could accept such lesser number of shares, in which event, Piper shareholders who thus tendered their shares to Chris-Craft would be placed at disadvantage in the event of an offer from Bangor Punta, or others, superior to that of Chris-Craft, or in the event the market price exceeded the Chris-Craft tender offer.

44. That meanwhile and on or about May 9, 1969, to preface, or fortify and further the success of Chris-Craft's second tender offer, Chris-Craft announced in the public press that "Chris-Craft's legal counsel considers the announcement [of the Piper - Bangor Punta agreement and any merger attempt] 'in violation of the Federal securities statues [sic] and Securities and Exchange Commission rules' ", which was an improper, wrongful and purposed method of inducing the tender of Piper shares to Chris-Craft until such alleged announcement had actually been declared to be such a violation by due process, the Securities and Exchange Commission, or adjudicated to that effect.

45. That defendant Chris-Craft has purchased Piper shares from Piper shareholders at grossly and unconscionably inadequate prices.

46. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.

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47. That by the acts and practices of Chris-Craft aforementioned, Chris-Craft procured the election of one or more directors at the Piper annual meeting of February 4, 1969; that such election is illegal and should be set aside by the Court.

48. That Chris-Craft has procured a list of stockholders of Piper by violation of law and its solicitation of shares and proxies by reason of such violation of law, and Rule 10b-6, has caused great damage to Piper and its shareholders and has enabled Chris-Craft to purchase Piper shares from Piper shareholders at grossly and unconscionably inadequate prices and Chris-Craft continues to do so.

49. That by reason of the foregoing, Chris-Craft should be directed and compelled to pay Piper and its shareholders the fair value of Piper shares acquired and to be acquired by Chris-Craft and to pay Piper and its shareholders all damages and losses sustained by them as a result of the matters above set forth.

FOURTH COUNT - CLASS ACTION

50. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.

Class Action Allegations: 2/

(1) This action is properly maintainable as a class action within Rule 23(b), subdivision (1) (A) and (B), and (3), Federal Rules Civil Procedure.

2/ Plaintiff makes no claim against the defendant Grumman in this FOURTH COUNT.

(2) (i) The number of the class is presently unknown, but it is believed that the number is sufficient to comply with the requirements of this rule. The number will be ascertained by discovery.(Approximately 1,000,000 shares involved).

(ii) The members of the class are described as those Piper shareholders who did not sell their Piper shares prior to the delisting of Piper on the NYSE, as well as (a) those Piper shareholders, except defendants, who sold their shares to Bangor Punta upon its tender and exchange offer to Piper shareholders; (b) those Piper shareholders who sold their shares to Chris-Craft upon its tender offers or at private sale while its tender offers had not yet expired; and(c) those Piper shareholders who sustained a loss in the sale of their shares subsequent to January 23, 1969.

(iii) The basis is that plaintiff has no interest adverse to the classes; that plaintiff has owned her shares long prior to the acts and practices complained of; that she is not associated in any way, shape or form with any of the defendants; that her attorneys are experienced in this type of litigation and will prosecute the same diligently on behalf of the plaintiff and the clases she represents; and that plaintiff's attorneys have no interest adverse to the claims of Piper shareholders.

(iv) The questions of law and fact common to the class are (a) whether defendants, except Chris-Craft, in their efforts to block Chris-Craft from taking over or merging Piper with Chris-Craft, made false or misleading statements and material omissions to the public and particularly to Piper shareholders alleging the inadequacy of Chris-Craft's tender offer and engaged in other illegal acts in the sale of shares before Bangor Punta filed and cleared its registration statement and acquiring Piper shares privately and otherwise than through its merger proposal prior to the expiration of its registration and prospectus for an exchange of Piper shares and merger with Piper and (b) whether Chris-Craft, in its efforts to take over or merge Piper with Chris-Craft, engaged in illegal acts in the acquisition of Piper shares during the period when its tender offers had not yet expired, which acts and practices constitute violations of the Securities Act of 1933 and the Securities and Exchange Act of 1934 and the Rules and Regulations applicable thereto, and (c) damages for breach of fiduciary duties.

(v) Among other averments set forth in this complaint, it is claimed (a) that the defendants, except Chris-Craft, made false or misleading statements and material omission alleging the inadequacy of Chris-Craft's tender offers to Piper shareholders and engaged in illegal acts to exchange Piper share for a Bangor Punta "package" before a registration and prospectu had been filed and cleared with the SEC and said defendants also engaged in acquiring Piper shares through private sale or other illegal means while its registration and prospectus for the merg of Piper with Bangor Punta had not yet expired; and (b) that Chris-Craft engaged in illegal acts in acquiring Piper shares other than by means of its tender offers prior to the time such tender offers expired. In further compliance, plaintiff alleges

(A) There is no interest in members of the class in individually controlling the prosecution of separate actions known to the plaintiff.

(B) The action was commenced on February 3 1969, as a derivative and class action containing the charges of this complaint which have been expanded by subsequent events and the addition of parties, contained in amended and supplement

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complaint in this action; actions have also been commenced in this and other jurisdictions, (a) brought by Chris-Craft against Bangor Punta, and (b) by Bangor Punta against Chris-Craft.

(C) It is desirable to concentrate the litigations of the claims in this forum for the convenience of the part and to facilitate the prosecution of the action.

(D) Plaintiff knows of no difficulties likely to be encountered in the management of a class action.

51. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticab that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

52. That as a result of the acts and practices complained of defendants Bangor Punta and Chris-Craft have purchased Piper shares from Piper's shareholders at grossly and unconscionably inadequate prices, and said defendants continue and intend to continue to do so.

53. That Bangor Punta likewise intends to and did illegally buy Piper shares of and from Piper shareholders at

54. That plaintiff was a shareholder of Piper at all the times of the acts and practices complained of.

55. That at the time of the acts and practices complained of Piper shares were reasonably worth in excess of the amounts which defendants Chris-Craft and Bangor Punta have offered or intend to offer Piper shareholders.

56. That as a result of the acts and practices complained of, defendant Bangor Punta has illegally and wrongful purchased Piper shares of and from Piper shareholders; the defendants, except Chris-Craft, have caused Piper to be deliste from the New York Stock Exchange, deprived Piper shareholders of a market for the sale of their shares; and have caused great loss and damage to the plaintiff and other shareholders of Piper similarly situated.

NINTH COUNT AS AGAINST THE INDIVIDUAL DEFENDANTS INCLUDING THE ESTATE OF WILLIAM T. PIPER, DECEASED

57. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.

58. That in and about the year 1969 Castanea Realty Co., Inc., a Pennsylvania corporation ("Castanea"), and Piper Investment Company, a Nevada corporation ("Piper Investment"), ere owned or controlled by the individual defendants or some f them.

59. That in or about February and March, 1969, the efendants Howard Piper, Thomas F. Piper, William T. Piper, Jr nd William T. Piper, deceased, acquired 16,525 shares of Piper rom Castanea or Piper Investment, or the beneficial interest herein, directly or indirectly, which they sold, assigned or

transferred to Bangor Punta in or about the month of August, 1969.

60. That the aforesaid sale, assignment or transfer to Bangor Punta of said Piper shares was made within six months after the date of such purchase.

61. That such acquisition and sale, assignment or transfer to Bangor Punta of said shares of Piper, as well as the sale of some 30% of Piper shares referred to in paragraphs "18" and "22" above and the bonus or premium referred to in paragraph "23" above, were accomplished by the misuse, illegal use and abuse of insider information for the personal profit of the said defendants, in violation of Section 10(b) of the Exchange Act and Rule 10b-5 of the Rules of the SEC, and said defendants realized short swing profits by one or more of said transactions, in violation of Section 16 of the Exchange Act of 1934, to which Piper is entitled, and the defendants liable therefor should be compelled to pay over the same to Piper, together with any damages sustained by Piper as a result thereof.

62. That said defendants failed to file true and accurate reports with respect to said transactions as required by law, and Piper and its shareholders were damaged thereby.

63. That two years have not elapsed since this cause of action accrued.

64. That the transactions of said defendants in the purchase and sale of the shares and equity securities of Piper were not exempt securities within Section 16(a) and (b) of the Act and Rule 16 of the SEC.

WHEREFORE, plaintiff prays judgment:

(1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders, and defendants' acts to be in violation of law.

(2) An injunction should be granted by the Court restraining the enforcement of any and all agreements between or among the defendants which purport to sell or exchange Pipe shares for the shares of any defendant, or combine, or consoli or merge Piper with any defendant at less than fair value of Piper's shares as determined by the Court.

(3) That an injunction should be granted restraini a take-over of Piper by or merger with Chris-Craft.

(4) That any take-over by or merger of Piper with Bangor Punta should be restrained.

(5) That defendants, jointly and severally, should b directed to account, divest themselves of all Piper shares ille acquired, and pay to Piper and/or its stockholders all damages suffered by them, including profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, together with interest, damages and short swing profits as provided by law.

(6) That the agreement of Grumman to purchase 300,00 shares of Piper should be enforced, but at fair value; that in alternative, the damages of Piper and its shareholders resulti from such transaction should be determined by the Court; that t agreement of Bangor Punta to acquire Piper by exchange of share consolidation or merger should be enforced, but at fair value a not less than $80 per share; that in addition, or in the

alternative, the damages of Piper and its shareholders should be determined by the Court.

(7) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court, and the proxi of management and Chris-Craft declared null and void.

(8) That plaintiff, on behalf of herself, and oth stockholders of Piper, similarly situated, requests that this Court determine that the Fourth Count of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

(9) Granting plaintiff such other, further and different relief as to the Court seems just.

(10) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

STULL & STULL
Attorneys for Plaintiff

By: Richard J. Stull
A Member of the Firm
Office & P. O. Address
6 East 45th Street
New York, New York, 10017
(212) 687-7230

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

LILLIAN STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing amended and supplemental complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Lillian Stull

Sworn to before me this
13th day of May, 1970
Gwendolyn L. Connelly

GWENDOLYN L. CONNELLY
Notary Public, State of New York
No. [illegible]
Qualified in Kings County
Commission Expires March [illegible] 1972

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SUMMONS IN A CIVIL ACTION D. C. Form No. 45 Rev. (6-49)

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

72 CIV. 2055

CIVIL ACTION FILE NO.

E

LILLIAN STULL,

Plaintiff

v.

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR. THOMAS F. PIPER and HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, PIPER AIRCRAFT CORPORATION, and XXXXXXBANGOR PUNTA CORPORATION,

Defendants.

RECEIVED 6-22-72
By MAIL
Filed
Served [illegible] June 19, 1972

SUMMONS

To the above named Defendants:

You are hereby summoned and required to serve upon

STULL & STULL

plaintiff's attorneys, whose address is

6 East 45th Street
New York, New York, 10017

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

A true copy
Attest
John L Buck
U.S. Marshal

JOHN LIVINGSTON
Clerk of Court.
Deputy Clerk.

MAY 12 1972

Date: May 10, 1972

[Seal of Court]

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

EXHIBIT M

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--x

LILLIAN STULL,

Plaintiff,

v.

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., THOMAS F. PIPER and HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, PIPER AIRCRAFT CORPORATION, and BANGOR PUNTA CORPORATION

Defendants.
--x

COMPLAINT

CLASS ACTION

PLAINTIFF DEMANDS A JURY TRIAL

Plaintiff, complaining of the defendants, by Stull & Stull, her attorneys, alleges upon information and belief, except as to paragraphs "1" and "2" which are alleged upon knowledge, the following:

1. The jurisdiction of this Court is founded upon Section 22 of the Securities Act of 1933 (15 USC 77v) and Section 27 of the Securities Exchange Act of 1934 (15 USC 78aa). The acts and practices complained of occurred in whole or in part in the Southern District of New York.

2. This action is not a collusive one to confer upon a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.

3. Pursuant to Rule 11A of the Civil Rules of this Court, plaintiff alleges:

CLASS ALLEGATIONS:

(1) This action is properly maintainable as a class action within Rules 23(b), subdivision (1) (A) (B), and (3), of the Federal Rules of Civil Procedure.

(2) (i) The number of members of the class is not known, but it is believed that the number is sufficient to comply with the requirements of this Rule, and to exceed 300 members.

(ii) The members of the class are described as those shareholders of Piper Aircraft Corporation ("Piper Aircraft"), who like plaintiff and other Piper Aircraft shareholders similarly situated owned or held Piper Aircraft shares on or about and prior to January 23, 1969 and (a) were induced by defendants' proxy materials, press releases, and other writings, not to accept, and dissuaded and prevented by the defendants or their misconduct from accepting tender and exchange offers made by Chris-Craft Industries, Inc. ("Chris-Craft"), one made on or about January 23, 1969 and expiring on or about February 3, 1969, being a tender offer of $65 in cash for each Piper Aircraft share tendered; and another made on or about May 19, 1969 and expiring on or about August 4, 1969, being an exchange offer of Chris-Craft securities plus $10 in cash, as amended, for each Piper Aircraft share tendered;

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and (b) still hold such Piper Aircraft shares, as does the plaintiff, having been deprived of such tender and exchange offers of Chris-Craft, as well as a fair and adequate market for the sale of such shares as a result of the misconduct complained of, or who, since January 23, 1969, have sold their Piper Aircraft shares at a price, or have received a value therefor, of less than either such tender or such exchange offers.

(iii) Plaintiff has no interests adverse to the class; she has involuntarily held and cannot fairly dispose of her shares since and because of the acts and practices complained of; she is not associated in any way, shape or form with any of the defendants; her attorneys are experienced in this type of litigation and will diligently prosecute this action on behalf of the plaintiff and the class she represents; and plaintiff's attorneys have no interests adverse to the claims of Piper Aircraft shareholders.

(iv) The question of law and fact common to the class are (a) whether the defendants in their efforts to block the Chris-Craft tender and exchange offers and to induce the plaintiff and other shareholders of Piper Aircraft similarly situated not to accept the same or to dissuade and prevent such Piper Aircraft shareholders from doing so, made false, deceptive or misleading statements and material omissions to such Piper Aircraft shareholders in proxy materials and since, alleging that said offers were inadequate, and engaged in other illegal acts and practices and breached their fiduciary duties to Piper Aircraft and its shareholders, for their self- interest and profit;

(b) whether such acts and practices constitute violations of the Securities Act and Exchange Act, aforementioned, and the Rules and Regulations of the Securities and Exchange Commission ("SEC") applicable thereto; and (c) whether plaintiff and other shareholders of Piper Aircraft similarly situated were damaged thereby.

(v) Among other averments set forth in this complaint, it is claimed that the defendants made false or misleading statements and material omissions to Piper Aircraft shareholders, alleging the inadequacy of Chris-Craft's tender and exchange offers without just reason and while omitting to state their true reasons therefor; and they engaged in other wrongful and illegal acts and breached their fiduciary duties, pending the annual meeting of Piper Aircraft, scheduled for February 4, 1969, and since,

(i) to induce such shareholders not to accept and dissuade and prevent them from accepting Chris-Craft's tender and exchange offers, and to vote management proxies at said annual meeting, and since;

(ii) to induce such shareholders to instead exchange their Piper Aircraft shares for a "package" of securities of the defendant Bangor Punta Corporation ("Bangor Punta"), before they were registered;

(iii) in acquiring approximately 120,000 Piper Aircraft shares through private sale after a public offer to exchange Piper Aircraft shares for the Bangor Punta "package" and before such public offer expired;

(iv) in failing to disclose material defects, obstacles and liabilities involved in Piper Aircraft products, as well as issuing misleading reports with respect thereto;

(v) in overstating Bangor Punta's assets and omitting to disclose certain of its liabilities; and

(vi) in omitting to disclose private, self-interest agreements between or among the individual defendants and Bangor Punta, for the self-profit of the individual defendants, among other such agreements made by the defendants or some of them.

In further compliance with subdivision (b) (1) of Rule 23, FRCP, plaintiff additionally alleges:

(A) The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class.

(B) Adjudications with respect to individual members of the class would as a practical matter be dispositive of the interest of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

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(3) There is no interest in members of the class in individually controlling the prosecution of separate actions known to the plaintiff. It is desirable to concentrate the litigations of the claims of the class in this forum for the convenience of the parties and to facilitate the prosecution of the action. Plaintiff knows of no difficulties likely to be encountered in the management of a class action. A prior action in this Court (69 Civ. 440) was commenced by the plaintiff on February 3, 1969 and is pending as a derivative and class action containing charges, which have been expanded by subsequent events, but do not fairly include the charges and the theory of liability and damages upon which the instant action is predicated. Also, individual actions by Chris-Craft against Bangor Punta and Piper Aircraft, and by Bangor Punta against Chris-Craft, brought subsequent to plaintiff's said prior action, have been dismissed by this Court and appeals from such dismissals are pending.

CAUSE OF ACTION:

4. Plaintiff is a stockholder of Piper Aircraft, owning 150 shares of its common (voting) shares, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, in the City and County of New York.

5. Plaintiff holds such shares involuntarily ever since and as a result of the acts and practices complained of.

6. Piper Aircraft is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing

business in the State of New York and its stock was listed and traded on the NYSE; Piper Aircraft is and for many years has been engaged in the manufacture and sale of light aircraft.

7. Defendant Bangor Punta is and was a Delaware corporation with offices in the City and State of New York at the time of the acts and practices complained of.

8. The individual defendants are or were at the times complained of directors and officers of Piper Aircraft, except that William T. Piper, who was Chairman of Piper Aircraft's board of directors at the time of the acts and practices complained of, died on or about January 30, 1970 and William T. Piper, Jr., Thomas F. Piper and Howard Piper are the Executors of his estate.

9. Defendants and William T. Piper, deceased, committed the misconducts complained of in violation of Sections 5 and 11 of the Securities Act (15 USC 77e and k) and Rule 135 of the Rules and Regulations of the SEC relating thereto and Sections 10(b) and 14(a) and (e) of the Exchange Act (15 USC 78j (b) and n (a) and (e)) and Rules 10b-5 and 10b-6, and Regulations 14a-1 et seq. of the SEC (17 CFR 240.10b-6, 14a-1 et seq.), among others, or are chargeable with joining in a conspiracy to commit such misconducts and to profit thereby. Plaintiff is a citizen and resident of the State of Connecticut; and defendants are citizens of States other than Connecticut.

10. Prior to January, 1969, Piper Aircraft was controlled by William T. Piper, now deceased, and his family (the "Piper family").

11. Prior to January, 1969, William T. Piper and the Piper family retained control over and dominated the management of Piper Aircraft by cumulative voting and by the confidence of its stockholders; and its annual meeting was scheduled for February 4, 1969 and management proxies had been sent to Piper Aircraft shareholders therefor.

12. In or around January, 1969, Chris-Craft acquired some 200,500 shares of Piper Aircraft, which was in excess of 10% of Piper Aircraft's common shares.

13. Seeking to gain control of Piper Aircraft's Board of Directors at the annual meeting scheduled to be held on February 4, 1969, and thereafter a merger with Piper Aircraft, Chris-Craft released the news of its said acquisition on or about January 23, 1969, and it made a tender offer for 300,000 or more additional shares of Piper Aircraft at a price of $65 per share, which expired on or about February 3, 1969.

14. On or about and prior to said tender offer, Piper Aircraft shares were trading on the NYSE at market prices of around $52 per share.

15. Thereupon, the defendants, except Bangor Punta, fearing they would lose control of the management of Piper Aircraft and its Board of Directors at said annual meeting and thereafter, acting together and in concert, wrongfully sought to induce the plaintiff and other shareholders of Piper Aircraft

similarly situated not to accept Chris-Craft's tender offer, and they embarked upon a plan, scheme and conspiracy to dissuade and prevent the plaintiff and other Piper Aircraft shareholders from accepting said tender offer, or otherwise disposing of their shares to Chris-Craft and they did so by use of the means or instrumentality of interstate commerce, or the mails, or the facilities of the NYSE, making untrue and unclear statements of material facts and omitting to state material facts necessary in order to make the statements they made, in light of the circumstances under which they were made, not misleading, and they engaged in fraudulent, deceptive or manipulative acts or practices in connection with such tender offer and in soliciting opposition thereto, in proxy materials for said annual meeting and in written materials publicly disseminated since that time.

16. On or about and subsequent to January 26, 1969 by telegram and letters initiated by the defendants, except Bangor Punta, defendants

(a) wrongfully urged Piper Aircraft shareholders not to tender their shares to Chris-Craft, and they stated without just reason, that Chris-Craft's tender offer was "inadequate" and "not in the best interests" of Piper Aircraft shareholders, and that "NOT ONE OF YOUR BOARD OF DIRECTORS OR MANAGEMENT WILL TENDER HIS SHARES", which defendants emphasized to induce shareholders of Piper Aircraft to follow the alleged lead of said "Board of Directors and management";

(b) omitted to disclose that Piper Aircraft had received advice from its financial adviser, First Boston Corporation, to the effect that $65 a share was a fair price for Piper Aircraft shares;

(c) defendants also misleadingly implied that all members of said Board of Directors and management held Piper Aircraft shares, which was untrue; and

(d) defendants also falsely implied that "Piper stock is worth substantially more than it [Chris-Craft] is offering" and that "Chris-Craft must believe" so, which was misleading, speculative and without basis, and they omitted to state that Piper Aircraft had serious product problems, hereinafter mentioned, which defendants omitted to disclose in their proxy materials and since.

17. Thereafter defendants continued in wrongful attempts and deals with other third parties to frustrate Chris-Craft's tender offer and to delay, dissuade and induce the plaintiff and other Piper Aircraft shareholders not to accept the same and the exchange offers by Chris-Craft, which followed such tender offer, by which Chris-Craft offered the plaintiff and other Piper Aircraft shareholders similarly situated, securities, plus $10 in cash, having a then value of approximately $75 per share for their Piper Aircraft shares.

18. In or about May, 1969, by press release calculated to dissuade and prevent the plaintiff and other Piper Aircraft shareholders similarly situated from tendering their shares to Chris-Craft or accepting Chris-Craft's exchange offer, and to induce them not to do so, the defendants, including Bangor Punta, wrongfully and unlawfully offered to exchange the shares of Piper Aircraft shareholders for a "package" of securities of Bangor Punta "to be valued in the judgment of the First Boston Corporation at not less than $80 per Piper [Aircraft] share", but such value was untrue, as the defendants knew or should have known, for reasons hereinafter set forth which the defendants failed to disclose.

19. The said Bangor Punta was illegally made and disseminated to the plaintiff and other Piper Aircraft shareholders similarly situated, in that no registration statement covering that exchange offer, the so-called "package" to be exchanged for Piper Aircraft shares, had been filed with the SEC or was in effect as required by law, and said Piper Aircraft shareholders were thereby deceived into selling their shares to Bangor Punta at less than their alleged "package" value and/or induced not to and dissuaded and prevented from selling such shares to Chris-Craft.

20. Thereafter, and following an injunction action instituted by the SEC against Piper Aircraft and Bangor Punta, for Securities Act violation, a registration of such "package" of securities offered by Bangor Punta to be exchanged for Piper Aircraft shares, allegedly worth $80 per Piper Aircraft share, was filed by the defendants, but such registration wrongfully furthered the plan, scheme and conspiracy of the defendants to dissuade and prevent Piper Aircraft shareholders from and to induce them not to accept the Chris-Craft tender and exchange offers, in that, Bangor Punta's assets and financials omitted to reflect the terms of outstanding institutional loans and included its holdings in the Bangor and Aroostook Railroad ("BAR") at a figure which it carried on its books in the amount of $18.4 million, although it had pending and deferred a transaction for the sale of its holdings in BAR for about $5 million, which it consummated shortly thereafter, as a result of which all profits which Bangor Punta had publicly reported and upon which the

evaluation of such "package" was materially based were in fact wiped out and therefore were in fact non-existent, all of which was not disclosed to Piper Aircraft shareholders during the period when Bangor Punta's exchange offer as well as Chris-Craft's offers were yet in effect and had not yet expired and Piper Aircraft shareholders were deceived thereby.

21. In addition, and following the aforesaid registration by Bangor Punta, the defendants, acting together and in concert, wrongfully and unlawfully negotiated and acquired for Bangor-Punta certain blocks of Piper Aircraft shares, through private sale, during the pendency of Bangor Punta's exchange offer for Piper Aircraft shares and before the same had expired, all purposed to block Chris-Craft's offers to Piper Aircraft shareholders, which were still open and had not yet expired.

22. In addition, in furtherance of their scheme and conspiracy, defendants wrongfully issued optimistic and misleading reports concerning Piper Aircraft products and failed to disclose material defects, production obstacles and liabilities involved in such products, in that

(a) with respect to the development of its "Pocono" plane, the same was and continued to be without a suitable motor to power the same, and said plane had to be and was eventually abandoned and the plant constructed by Piper Aircraft in Lakeland, Florida, to manufacture and assemble said "Pocono" plane was rendered idle and useless, as the defendants well knew or should have known; and

(b) with respect to its "Twin Comanche" plane, that plane as developed and sold caused numerous and continual crashes, loss of life and liabilities to Piper Aircraft, and that product had to be and was eventually abandoned as defendants well knew or should have known.

Plaintiff and Piper Aircraft shareholders similarly situated were thereby deceived and induced not to and dissuaded and prevented from selling their shares to Chris-Craft.

23. In addition, and in furtherance of their scheme and conspiracy to block Chris-Craft's offers to the plaintiff and other Piper Aircraft shareholders similarly situated, Bangor Punta privately promised and agreed with the remaining defendants and guaranteed to said defendants, constituting Piper Aircraft's management (and certain of their relatives) that they would receive a substantial stock or cash bonus from the previous sale of their stock to Bangor Punta, if Bangor Punta were to be successful in acquiring control of Piper Aircraft; and defendants accordingly also had a conflict of interests in that they were to personally profit by the defeat of the Chris-Craft tender and exchange offers, and defendants omitted to disclose to the plaintiff and other Piper Aircraft shareholders any of the foregoing, and that in truth and fact they were acting in their self-interest for undisclosed profit and not in the interests of or equal profit to Piper Aircraft shareholders in their efforts to induce such shareholders not to accept and to dissuade and prevent them from accepting Chris-Craft's offers and Piper Aircraft shareholders were deceived thereby.

24. As a result of the misconduct of the defendants, trading in Piper Aircraft shares on the NYSE was suspended by the SEC and as a direct or indirect result thereof Piper Aircraft was eventually delisted from the NYSE, depriving plaintiff and other Piper Aircraft shareholders of such market for their shares, all to the loss and damage of the plaintiff and other Piper Aircraft shareholders similarly situated.

25. Plaintiff and other members of the class she represents, had no knowledge of the wrongful and illegal acts of the defendants hereinabove mentioned, and could not have discovered them by the exercise of reasonable diligence at or prior to the expiration of Chris-Craft's tender and exchange offers aforementioned.

26. Bangor Punta well knew or should have known of the misconducts of the defendants which occurred prior to May, 1969, when it joined in the scheme and plan complained of and when its participation in the frauds charged commenced; and as a result thereof it became a controlling entity over or affiliate of Piper Aircraft and it participated in or aided and abetted the wrongful and illegal acts complained of and is chargeable therewith.

27. Plaintiff and the other members of the class she represents relied upon the proxy statements, recommendations, proposals, reports and writings of the defendants, and upon

their material omissions, and did not accept Chris-Craft's tender and exchange offers and involuntarily hold their Piper Aircraft shares, or have since sold their Piper Aircraft shares at less than $65. per share.

28. Plaintiff and the other members of the class she represents were caused to reject the Chris-Craft offers by reason of the acts and practices complained of, and as a result thereof were damaged in the amount of at least $25,000,000.

WHEREFORE, plaintiff demands judgment against the defendants in the amount of at least $25,000,000, reasonable attorneys' and accountants' fees, together with interest and costs.

STULL & STULL
Attorneys for Plaintiff

By: /s/ Robert A Stull
A Member of the Firm
Office & P.O. Address
6 East 45th Street
New York, New York, 10017
(212) 687-7230

CA411

Cross Motion of Defendant The First Boston Corporation

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - x

RICHARD J. STULL, :

Plaintiff, :

-against- :

NICHOLAS H. BAYARD, et al., :

Defendants. :

- - - - - - - - - - - - - - - - - x

NOTICE OF MOTION

75 Civ. 3782 (I.B.W.)

OFFICE COPY
ADM[illegible] OFFICE OF
SU[illegible]ELL
48 WALL ST., NEW YORK [illegible]

S I R S:

PLEASE TAKE NOTICE that upon all of the pleadings herein and upon the memorandum of law of The First Boston Corporation, ("First Boston"), the undersigned will make cross-motions at the United States Court House, City of New York, New York, on the 17th day of December, 1975, or as soon thereafter as counsel can be heard, that this Court enter, pursuant to Rule 11 of the Federal Rules of Civil Procedure an order striking plaintiff's complaint, or that this Court enter, pursuant to Rule 56 of the Federal Rules of Civil Procedure, a summary judgment in First Boston's favor dismissing the action, on the grounds that there is no genuine issue as to any material fact and that First Boston is entitled to a judgment as a matter of law and that plaintiff's claim is barred by the applicable statute of limitations and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
November 30, 1976

SULLIVAN & CROMWELL

By John L. Warden by C.W.S.
(A Member of the Firm)

48 Wall Street,
New York, New York 10005.
(212) 952-8100

Attorneys for Defendant
The First Boston Corporation

TO:

CHADBOURNE, PARKE, WHITESIDE & WOLFF,
Attorneys for Defendants, Howard
Piper, Thomas F. Piper and
William T. Piper, Jr.,
30 Rockefeller Plaza,
New York, New York 10020.

DEMOV, MORRIS, LEVIN & SHEIN,
Attorneys for Plaintiff,
40 West 57th Street,
New York, New York 10019.

WEBSTER & SHEFFIELD,
Attorneys for Defendatn
Bangor Punta Corporation,
1 Rockefeller Plaza,
New York, New York 10020.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - x
RICHARD J. STULL, :
Plaintiff, :
75 Civ. 3782 (I.B.W.)
-against- :
NICHOLAS H. BAYARD, et al., :
Defendants. :
- - - - - - - - - - - - - - - - - - - x

IN OFFICE OF
SULLIV CROMWELL
48 WALL ST. NEW YORK N.Y.

Rule 9(g) Statement of The First Boston Corporation

The First Boston Corporation contends that the following are the material facts as to which there is no genuine issue to be tried.

1. Richard Stull acted as attorney for his wife, Lillian Stull, in Stull v. Green, 69 Civ. 440, and in the pleadings filed on her behalf characterized the Chris-Craft tender and exchange offers as "grossly and unconscionably inadequate". As attorney for his wife, Richard Stull signed certain of those pleadings, including the fourth amended complaint dated May 13, 1970.

2. Richard Stull has admitted in his deposition taken in this action that he does not recall having read Bangor Punta's registration statement, issued July 18, 1969, which he claims dissuaded him from accepting the Chris-Craft exchange offer.

Counterstatement To Plaintiff's Rule 9(g) Statement

3. The decision of the Court of Appeals in Chris-Craft Industries, Inc. v. Piper Aircraft Corporation, 480

F.2d 341 (2d Cir. 1973), is not final, but is pending before the Supreme Court of the United States, which heard oral argument on the merits on October 6, 1976.

Dated: New York, New York
December 1, 1976

SULLIVAN & CROMWELL

By______________________
(A Member of the Firm)
Attorneys for Defendant
The First Boston Corporation
48 Wall Street,
New York, New York 10005.
(212) 952-8100

Opposing Affidavit of Richard J. Stull

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-------------------------------x

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

-------------------------------x

75 Civ. 1782 (IBW)

OPPOSING AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

RICHARD J. STULL, being duly sworn, deposes and says:

I am the plaintiff in the above captioned action, familiar with the facts and prior proceedings herein, and submit this affidavit in opposition to defendants' motions for summary judgment, which affidavit is limited to the question of the statute of limitations, at the request of this Court. The remaining issues will be responded to as directed by the Court.

I have been informed that this Court has raised questions of my good faith in commencing this action at a time when there was a "settlement" of two actions commenced by my wife (Lillian Stull v. Pool and Lillian Stull v. Greene). I respectfully submit that this is not correct. My conduct has been open and above board and entirely in good faith.

I and my firm commenced the above two actions on behalf of my wife in 1969 arising out of the Piper-Chris-Craft-Bangor Punta tender offers. The first of the above actions was commenced as a class action and the second, as a derivative suit.

In 1974, the first action was denied class action status by Judge Owen (63 F.R.D. 702) on the sole grounds of the relationship between my wife and me. Promptly, upon that decision, I and my firm withdrew as counsel for my wife and the firm of Milberg & Weiss were substituted as attorneys and took over both actions.

Thereafter, that firm conducted all proceedings in both of the actions and I and my firm had no further participation in any proceedings. The firm of Milberg & Weiss conducted all discussions of settlement, drafting of settlement papers and attendant proceedings in connection with the proposed settlement. I and my firm did not participate in any way, nor were we party to any such proceedings, directly or indirectly.

In fact, I expressly informed the firm of Milberg & Weiss and my wife that I would not participate in any further activity in the matter, and I would not advise my wife on the desirability or non-desirability of settling the case. I stated my objection to any settlement whatsoever, in a format which did not encompass the class.

The case was settled over my objections. The defendants sought to involve me in the settlement, continually calling me down to discussions and requesting that I release all my claims as part of that settlement. I refused and expressly informed all concerned -including defendants' counsel that I reserved all my rights and that I planned to sue on behalf of a class. Over my objections,I was expressly invited to various conferences before Magistrate Schrieber in the Stull v. Pool and Stull v. Greene cases and I repeated my various reservations and future intentions at each such occasion.

In accordance with my expressly stated intentions, this action was commenced on August 1, 1975. The commencement occurred before Stull v. Pool and Stull v. Greene were settled.Indeed, I have been informed since the commencement of the action that settlement discussions continued after the commencement of my action. A stipulation of settlement was entered into in the Stull v. Pool and Stull v. Green matters on January 28, 1976 - approximately six months after my action was started. The stipulation was "So Ordered" by this Court on February 11, 1976. My action was already being actively litigated on both those occasions.

Thus, defendants were made fully aware of my intention to sue and of the existence of the present suit. At no time did I play both "fast and loose" with this Court and its processes. I have always intended that the rights of the class be protected and the only way such rights could be protected was by the institution of this action.

Richard J. Stull

Sworn to before me this

20th day of December, 1976.

Mildred B. Honig
Notary Public

MILDRED B. HONIG
NOTARY PUBLIC, State of New York
No. 41-1850361 Queens County
Certificate filed in New York County
Term Expires March 30, 1977

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Opinion of District Court

Lit IIP [illegible]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - x

RICHARD J. STULL,

Plaintiff,

-against- 75 Civ. 3782

NICHOLAS E. BAYARD, et al.,

Defendants.

- - - - - - - - - - - - - - - - - - x

APPEARANCES:

DEMOV, MORRIS, LEVIN & SHEIN, ESQS.
Attorneys for Plaintiff
40 West 57th Street
New York, New York 10019

IRVING BIZAR, ESQ.
Of Counsel

CHADBOURNE, PARKE, WHITESIDE & WOLFF, ESQS.
Attorneys for Defendants Howard Piper,
Thomas F. Piper and William T. Piper, Jr.
30 Rockefeller Plaza
New York, New York 10020

PAUL G. PENNOYER, JR., ESQ.
MARCIA E. CARPENI
Of Counsel

WEBSTER & SHEFFIELD, ESQS.
Attorneys for Defendant
Bangor Punta Corporation
1 Rockefeller Plaza
New York, New York 10020

ROGER L. WALDMAN, ESQ.
ALLAN J. GRAF, ESQ.
Of Counsel

SULLIVAN & CROMWELL, ESQS.
Attorneys for Defendant
The First Boston Corporation
48 Wall Street
New York, New York 10005

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JOHN L. WARDEN, ESQ.
CHARLES [illegible] SULLIVAN, ESQ.
PHILIP K. HOWARD, ESQ.
Of Counsel

WYATT, District Judge,

This is a motion by plaintiff for an order (a) determining that this action may be maintained as a class action (Fed. R. Civ. P. 23(c)(1)) and (b) granting partial summary judgment in favor of plaintiff (Fed. R. Civ. P. 56), determining that defendants are liable to plaintiff.

There are three cross-motions: (a) by defendants Howard Piper, Thomas F. Piper, and William T. Piper, Jr.; (b) by defendant Bangor Punta Corporation ("Bangor"); and (c) by defendant The First Boston Corporation ("First Boston"). The cross-motions are for summary judgment in favor of the moving defendants, based on a number of grounds. Because I find that the action is barred by the statute of limitations, the other grounds asserted by movants are not reached.

1.

This action (denominated in the complaint as a "class-action") was commenced on August 1, 1975, and is one of many actions arising out of the battle in 1969 between Bangor and Chris-Craft Industries, Inc. ("Chris-Craft") for control of Piper Aircraft Corporation ("Piper"). As part of their competing efforts to obtain a controlling interest in Piper, Bangor and Chris-Craft each made tender or exchange offers to stockholders of Piper. The history of the controversy may be found in the opinion of our Court of Appeals in Chris-Craft

Industries, Inc. v. Piper Aircraft Corp., 480 F.2d 341 (1973).

Plaintiff is Richard Stull, a New York lawyer who has been active in class and derivative actions. He is, and at all relevant times has been, married to Lillian Stull. In 1969 Lillian owned 150 shares and Richard owned 75 shares of Piper. There were 1,644,890 Piper shares outstanding. Richard had advised Lillian to buy her Piper shares (plaintiff deposition 168-9). Neither Richard nor Lillian accepted any tender offer of either Chris-Craft or Bangor for their Piper shares.

2.

Chris-Craft began buying Piper shares in 1968 in the open market. On January 23, 1969, Chris-Craft made a public tender offer for 300,000 Piper shares at $65 in cash per share.

On February 3, 1969, Lillian, represented by Richard as her attorney, commenced an action in this Court (69 Civ. 440; sometimes referred to hereafter as the "first Lillian action"). There were a number of claims against various defendants, the principal ones being asserted derivatively for the benefit of Piper. The defendants included the three members of the Piper family who are defendants in the case at bar. The gist of the complaint was that defendants had wrongfully adopted a plan to prevent Chris-Craft from securing control of Piper. Yet Lillian averred that the true value of the Piper shares was in excess of $100 per share (and if so the defendants conferred a benefit on Lillian and other stockholders).

On May 12, 1972, Lillian, again represented by Richard as her attorney, commenced another action in this Court (72 Civ. 2055; sometimes referred to hereafter as "the second Lillian action"). In the second Lillian action, she sought to represent Piper stockholders as a class and to hold defendants liable because by false and misleading statements they induced the class not to consider the $65 per share tender offer of Chris-Craft, which offer was a "fair price" for the Piper shares. (The inconsistency of the claims in the two actions is glaring.)

First Boston was not named as a defendant in either of the two Lillian actions.

There was much activity for several years in the two Lillian actions, with Richard acting as attorney for Lillian. By order filed December 28, 1973, Judge Carter consolidated the two Lillian actions.

Then on April 30, 1974, Judge Owen in the second Lillian action filed an order with opinion (reported at 63 F.R.D. 702) denying a motion by Lillian that the second Lillian action be maintained as a class action. Judge Owen's reason was that Lillian was not an appropriate representative of the class because (a) her husband Richard was her attorney and there was a "potential conflict of interest" which was "obvious" and (b) her sworn statements in her two actions were so "contradictory" that they made her "vulnerable to embarrassing cross-examination".

At some point after Judge Owen's decision, Richard seems to have ceased to appear in any papers or proceedings as attorney for Lillian and the firm of Milberg & Weiss appeared as her attorneys. As part of a notice of motion for reargument before Judge Owen, a consent to substitute Milberg & Weiss as attorneys in the two Lillian actions was filed on May 9, 1974. Richard and his law partner arranged for this substitution (plaintiff deposition 80); apparently Lillian had nothing to do with the selection or retainer of Milberg & Weiss.

On March 14, 1975, the two Lillian actions were, as part of a special program in this Court, transferred to me for all purposes.

After a hearing before me on April 25, 1975, of many motions, an order was filed on May 28, 1975. Among other things, this order "deconsolidated and severed" the two Lillian actions and directed "that they be tried separately". The order also recognized a change in the management of Piper, realigned Piper as a party plaintiff in the first Lillian action, permitted it to file an amended complaint in that action against members of the Piper family, and severed the claims of Lillian in that action "from the claims to be asserted" by Piper.

Thereafter, the parties began discussion of settlement of the two Lillian actions.

3.

The action at bar was commenced by Richard as a class action on August 1, 1975. The claim made here by Richard is substantially the same claim in more or less the same words as that made in the second Lillian action. First Boston was made a defendant in Richard's action; it was not a defendant in the two Lillian actions.

We are told (Memo for Piper family, 8) that before the Richard action was commenced an agreement in principle had been reached settling the two Lillian actions. This does not seem to be disputed.

What legitimate reason there could have been for Richard to commence a third action is difficult to discover. His own testimony on the subject by deposition was evasive and hard to believe. He testified that he knew of no settlement (SM 84), that he was not informed of the substance of settlement negotiations (SM 86), that he had nothing to do with it (SM 86), that after he was substituted he had nothing to do with Lillian's actions (SM 86-7), that he did not know the status of her actions (SM 86), and that he asked Lillian "to exclude me from any discussions" (SM 86). In an affidavit submitted on these motions, Richard states: "The case was settled over my objections." (Presumably this refers to both the Lillian actions.)

Richard would have us believe that his wife, on whose behalf he had brought the two actions, for whom he had acted as attorney in the two actions for several years, who had bought the Piper shares on his advice, and with whom he was living in peace and harmony, settled the two actions over his "objections" on the advice of lawyers hand picked by Richard and retained for her by him. I cannot stretch credulity so far.

If Richard really objected to a settlement by Lillian, she and her lawyers (hand picked by Richard) could readily have been persuaded to refuse the settlement. If, for some bizarre reason not now to be seen, persuasion did not succeed, Richard could have asked to intervene in the two Lillian actions. Moreover, in the derivative action (the first Lillian action) the settlement required the approval of the Court. Richard could have asked the Court to disapprove the settlement. Any of these courses would have avoided the statute of limitations problem, which at that late date was certainly an obvious one. But Richard followed none of the logical courses. Instead, he commenced this third action. His reasoning must have been that he and Lillian would enjoy the benefits of the settlement of her actions, while preserving the chance of future benefits through prosecution of his third action.

4.

Despite the commencement of the Richard action, defendants went ahead to complete settlement of the two Lillian actions. This seems understandable from their point of view since it would be an advantage to them to eliminate the two Lillian actions against which the statute of limitations could not be urged, even though a third action remained but one against which the statute of limitations would be available.

The first Lillian action, being a derivative action, required Court approval of a settlement. Fed. R. Civ. P. 23.1 A stipulation of settlement was filed which referred to the fact that Piper itself had commenced, in the Court of Common Pleas for Clinton County, Pennsylvania, an action against the Piper family members. Settlement of the first Lillian action was agreed not to affect the rights of Piper in its Pennsylvania action. Neither Lillian nor Piper were to obtain anything from any defendant but Bangor agreed to pay $1249.99 for costs and disbursements incurred by Richard's law firm and Milberg & Weiss in the action. An order was filed on February 11, 1976, directing that notice of the settlement be given by mail to all Piper stockholders and of a hearing on the settlement to be held on March 26, 1976. Such hearing was held. No stockholder - notably including Richard - opposed. The settlement was approved and the action dismissed by order filed March 26, 1976.

Since Judge Owen had denied class action status to the second Lillian action, no Court approval for the settlement of this action was required. What benefits Lillian received by way of settlement are not shown and are not required to be shown. A stipulation of dismissal of the second Lillian action was submitted, "So ordered", and filed on March 16, 1976.

5.

This brings us finally to the application of the statute of limitations to the third action, that by Richard.

It is averred inthe complaint that the defendants made untrue statements of material facts and omitted to state other material facts which were necessary to make their statements not misleading, and that they engaged in fraudulent, deceptive, and manipulative acts and practices in violation of Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. § 78n(e); "the 1934 Act"). The various misleading statements and omissions occurred in several letters directed to Piper stockholders from members of the Piper family in January and June of 1969, a press release on May 8, 1969, and the registration statement of Bangor on July 18, 1969.

There is also an averment that the public announcement by the defendants in May of 1969 of Bangor's exchange offer was "illegally made and disseminated" (apparently claimed to be in violation of Section 14(d)(1) of the 1934 Act ; 15 U.S.C. § 78n(d)(1)), because the announcement was made at a time when no registration statement concerning the offer had been filed with the Securities and Exchange Commission. Since plaintiff seeks relief only for damages suffered because of his failure to accept the Chris-Craft offer, and makes no claim that he bought, sold, or even considered accepting Bangor's exchange offer, this averment can only be construed as charging another misleading omission under Section 14(e) of the 1934 Act.

Finally, it is averred that the defendants "wrongfully and unlawfully negotiated and acquired" for Bangor during the pendency of Bangor's exchange offer, blocks of Piper shares at private sale. How this activity violated Sections 14(d)(1) or 14(e) of the 1934 Act is not understood, but it appears that in any event all such acquisitions by Bangor occurred between

May 14 and May 23, 1969. Chris-Craft Industries, Inc. v. Piper Aircraft Corp., 480 F.2d at 377

It is thus clear that all of the allegedly unlawful acts of the defendants were averred as having been committed between January 26, 1969 and July 18, 1969.

6.

The principle is established that when a federally created right of action has no accompanying statute of limitations, the local law of limitations is applicable. Ernst & Ernst v. Hochfelder, ___ U.S. ___ (March 30,1976; slip opinion, p.23, fn. 29); Klein v. Bowers, 421 F.2d 338, 343 (2d Cir. 1970)

The relevant New York statutes are CPLR §§ 213(9) and 203(f). When read together, these statutes provide that, in actions based on fraud, suit must be commenced either within six years of the time the fraud is committed, or within two years of the time the fraud is, or should have been, discovered by the plaintiff, whichever period is longer. Rutland House Associates v. Danoff, 37 A.D.2d 828, 325 N.Y.S.2d 273 (1st Dept., 1971)

7.

It is clear that in the present case, the last fraudulent act of which plaintiff complains occurred on July 18, 1969. This action was not filed until August 1, 1975, more than six years later. The plaintiff, by his own admission, discovered the alleged violations of Section 14 of the 1934 Act by defendants no later than December 10, 1971, the date of Judge Pollack's decision in Chris-Craft Industries, Inc. v. Piper Aircraft, 337 F.Supp. 1128. See deposition of plaintiff pp. 61-66 Clearly, the action was commenced more than two years after discovery by plaintiff of the fraud.

8.

To avoid the conclusion just reached, plaintiff argues that commencement as a class action of the second Lillian action tolled the running of the statute of limitations, at least during the period before Judge Owen ordered that the second Lillian action could not be maintained as a class action. This argument is based on the opinion in American Pipe & Construction Co. v. Utah, 414 U.S. 538 (1974).

In American Pipe, the District Court denied leave to intervene under Fed. R. Civ. P. 24(b)(2) to members of a purported class after class action status had been denied to the action and after the relevant limitations period had run on the claims of the applicants to intervene; the District Court held that the statute of limitations had not been tolled by commencement of the class action on their behalf. 50 F.R.D. 99 The Court of Appeals reversed, finding that the statute had been tolled as to the applicants to intervene; it did not direct the District Court to grant their motion to intervene but remanded for an exercise of discretion under Fed. R. Civ. P. 24(b) as to their motion to intervene. 473 F.2d 580 The Supreme Court then affirmed, saying (among other things);

> "We hold that in this posture, at least where class action has been denied solely because of failure to demonstrate that 'the class is so numerous that joinder of all members is impracticable,' the commencement of the original class suit tolls the running of the statute *for all purported members of the class who make timely motions to intervene after the court has found the suit inappropriate for class action status.*" (414 U.S. at 553; emphasis supplied)

The Supreme Court went out of its way to specify that the limitations statute was tolled by a class action only as to those "purported members of the class who make timely motions to intervene after the court has found the suit inappropriate for class action status".

Richard is not within the *American Pipe* principle of tolling. He did not move (timely or not) to intervene in the then pending second Lillian action after class action status had been denied to that action. Richard went counter to and defied the *American Pipe* principle by commencing a separate and independent action, thus increasing the volume of federal litigation and defeating the economy and efficiency which it was the object of the present class action Rule 23 to bring about.

There is no square authority on the point, but in my view a member of a class, on whose behalf a class action has been commenced, may not bring a separate, independent action after his individual claim has been time barred. His sole remedy, under *American Pipe*, is a timely motion to intervene in the class action after class action status has been denied; only if he does so, is the statute of limitations tolled as to him.

The discussion in *American Pipe* centered on the nature and objectives of class actions. The opinion began: "This case involves an aspect of the relationship between a statute of limitations and the provisions of Fed. Rule Civ. Proc. 23 regulating class actions in the federal courts." The opinion relied on rulings under Fed. R. Civ. P. 23 as it stood before the 1966 amendments that intervention by a class member was proper even though his claim was time barred (*Escott v. Barchris Construction Corp.*, 340 F.2d 731 (2d Cir. 1965) was one of these.) The opinion stated: "Thus, the commencement of the [class] action satisfied the purpose of the limitation provision *as to all those who might subsequently participate in the [class] suit* as well as for the named plaintiffs" (414 U.S. at 551; emphasis supplied). The opinion states: ". . . the later running of the applicable statute of limitations does not bar *participation in the class action* and in its ultimate judgment" (414 U.S. at 552; emphasis supplied). There is nowhere in the opinion any suggestion that a separate independent action by a class member could be maintained. The opinion emphasized that its interpretation of the class action Rule 23 was "necessary to insure effectuation of the purposes of litigative efficiency and economy that the Rule in its present form was designed to serve" (414 U.S. at 556). It certainly would not effectuate "litigative efficiency and economy" to permit any number of separate, independent actions by class members on time-barred claims. The separate opinion of Mr. Justice Blackmun points out that the *American Pipe* principle will not unduly encourage the assertion of stale claims because these can only be asserted through intervention either as of right or as an exercise of the Court's discretion and that the *American Pipe* decision does not "necessarily guarantee intervention for *all* members of the purported class" (414 U.S. at 561; emphasis supplied).

The conclusion in the Moore treatise from a study of *American Pipe* is this: "On balance, then, it seems likely that the class member may not file an independent suit after the claim is time-barred". 3B Moore's Federal Practice 1975 Supplement p.155

There is a puzzling footnote 13 in the opinion of Mr. Justice Powell in *Eisen* v. *Carlisle*, 417 U.S. 156, at 176 (1974). This might suggest a broader reading of the effect of *American Pipe* than mine.

I have examined the cases cited for Richard. They do not affect my conclusion and not all of them need be mentioned. *Hellerstein* v. *Mather*, 360 F.Supp. 473 (D. Col. 1973) without discussion reaches a conclusion contrary to mine but this was before the Supreme Court decided *American Pipe*. *Miller* v. *Central Chinchila Group, Inc.*, [1974-1975 Transfer Binder] CCH Sec. Law R. ¶ 95,077 (S.D.Iowa 1975) seems to read *American Pipe* as I do because in denying class action status the Court ordered notice thereof to all members of the class with further notice that they had 30 days within which to move to intervene.

The several cross-motions by defendants are granted. The motion by plaintiff is denied as moot.

Settle Order.

Dated: New York, New York
January 7, 1977

INZER B. WYATT
United States District Judge

CA434

Order and Judgment of District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. D.C.
Filed
Jun 19 1977
S.D. of N.Y.

- x
RICHARD J. STULL, : 75 Civ. 3782 (IBW)
Plaintiff, : **ORDER** & Judgement
-against- :
NICHOLAS H. BAYARD, et al., :
Defendants. :
- x

Plaintiff Richard J. Stull having made a motion for (1) an order, pursuant to Rule 23 of the Federal Rules of Civil Procedure, declaring the within action a class action and (2) for partial summary judgment, pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, determining that all the defendants are liable to the plaintiff;

Defendants Howard Piper, Thomas F. Piper, William T. Piper, Jr., Bangor Punta Corporation and The First Boston Corporation having opposed plaintiff's motion and having cross-moved, pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, for summary judgment against the plaintiff on the grounds, among others, that plaintiff's claim was not brought within the required time limit allowed therefor, that there is no issue as to any material fact and that the moving parties are entitled to judgment as a matter of law;

Upon reading the pleadings herein, the papers submitted in support of and in opposition to said motions including (a) plaintiff's notice of motion dated August 23, 1976, the affidavits of Richard J. Stull and

Irving Bizar dated August 23, 1976 and exhibits attached thereto, plaintiff's Rule 9(g) statement dated August 23, 1976 and memorandum of law in support of plaintiff's motion for a class determination and partial summary judgment, (b) defendants' papers submitted in opposition to plaintiff's aforesaid motion and in support of their cross-motions for summary judgment, including the notice of motion by the individual Piper defendants dated November 30, 1976, the affidavit of Paul G. Pennoyer, Jr. dated October 29, 1976 and exhibits attached thereto, Rule 9(g) statement dated November 30, 1976 and memorandum of law, the notice of motion by defendant The First Boston Corporation dated November 30, 1976, Rule 9(g) statement dated December 1, 1976 and memorandum of law, the notice of motion by Bangor Punta Corporation dated November 30, 1976, the affidavit of Allan J. Graf dated November 30, 1976 and exhibits attached thereto, Rule 9(g) statement dated November 30, 1976 and memorandum of law and (c) the papers submitted by plaintiff in opposition to defendants' cross-motions, including the affidavit of Richard J. Stull dated December 20, 1976 and memorandum of law, and upon consideration of the arguments made before this Court on December 17, 1976, by various counsel in support of and in opposition to said motions, and upon the opinion of this Court dated January 7, 1977 it is

ORDERED that the defendants' cross-motions for summary judgment are granted and it is further

ORDERED, that plaintiff's motion for an order determining that this action may be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and for partial summary judgment determining that defendants are liable to plaintiff is in all respects denied as moot and it is further

ORDERED, ADJUDGED AND DECREED that plaintiff's complaint be dismissed on the merits with prejudice and that defendants recover their costs.

Dated: New York, New York
January 18, 1977

Inzer B. Wyatt
U.S.D.J.

Judgement Entered - 1/20/77

Raymond F. Burghardt
Clerk

CA438

CA439

Notice of Appeal

COPY RECEIVED
By mail from Clerk
FEB 18 1977
SULLIVAN & CROMWELL
ATTORNEYS FOR

ENTERED

FILED
U.S. DISTRICT COURT
FEB 16 11 46 AM '77
S. D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----------------------------------x

RICHARD J. STULL,

Plaintiff,

-against-

NICHOLAS H. BAYARD, et al.,

Defendants.

-----------------------------------x

75 Civ. 3782 (IBW)

S I R S:

PLEASE TAKE NOTICE that the plaintiff herein appeals to the United States Court of Appeals for the Second Circuit, from the order and judgment of the United States District Court for the Southern ~~District of New~~ York (~~Wyatt, D. J.~~), dated January 18, 1977 and entered in the office of the clerk on January 19, 1977.

Dated: February 11, 1977

A. ARNOLD GERSHON
DEMOV, MORRIS, LEVIN & SHEIN

By
A Member of the Firm

Attorneys for Plaintiff
40 West 47th Street
New York, New York 10019
(212) 757-5050

Send to:

Pattenson, Belknap + Webb
30 Rockefeller Plaza
New York, New York 10020
(Piper Aircraft Corp.)

Sullivan + Cromwell
48 Wall Street
New York, New York 10005
(The First Boston Corp.)

Chadbourne, Parke, Whiteside + Wolff
30 Rockefeller Plaza
New York, New York 10020
(William T. Piper, Jr.)

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

- x

RICHARD J. STULL, :

Plaintiff-Appellant, : Docket No. 77-7088

-against- :

NICHOLAS H. BAYARD, et al., :

Defendants-Appellees. :

- x

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

GEORGE A. SCHOLZE, being duly sworn, deposes and says that he is an attorney associated with Sullivan & Cromwell, attorneys for Defendant-Appellee The First Boston Corporation; that on the 10th day of May, 1977 he caused the within Appendix to be served upon Demov, Morris, Levin & Shein, attorneys for plaintiff by having a true copy of the same delivered to said attorneys at 40 West 57th Street, New York, N.Y. 10019, by leaving the same with a person in charge os daid office.

George A. Scholze

Sworn to before me this
10th day of May, 1977

Bruce H. Arch
Notary Public

BRUCE H. ARCH
NOTARY PUBLIC, State of New York
Residing in Queens County
Queens Co. Clk's No. 41-4609678
Certificate Filed in
New York Co. Clk's
Commission Expires March 30, 197